UNITED STATES DEPARTMENT OF LABOR
CHILDREN'S BUREAU - - - PUBLICATION No. 193

THE CHILD, THE FAMILY, AND THE COURT

GENERAL FINDINGS AND RECOMMENDATIONS

UNITED STATES DEPARTMENT OF LABOR
FRANCES PERKINS, Secretary
CHILDREN'S BUREAU
GRACE ABBOTT, Chief

THE CHILD, THE FAMILY AND THE COURT

A STUDY OF THE ADMINISTRATION OF JUSTICE IN THE FIELD OF DOMESTIC RELATIONS

GENERAL FINDINGS AND RECOMMENDATIONS

BY

BERNARD FLEXNER, REUBEN OPPENHEIMER,
and KATHARINE F. LENROOT

Bureau Publication No. 193
(Revised edition)

UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1933

For sale by the Superintendent of Documents, Washington, D. C. - - - - - - Price 10 cents

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LETTER OF TRANSMITTAL

UNITED STATES DEPARTMENT OF LABOR,
CHILDREN'S BUREAU,
Washington, D. C., June 5, 1933.

MADAM: There is transmitted herewith a reprint, with certain additional material, of a report on The Child, the Family, and the Court; a Study of the Administration of Justice in the Field of Domestic Relations. This report, first published in 1929 as Part I, General Findings and Recommendations, is based upon legal research and field observations and was written by Bernard Flexner and Reuben Oppenheimer, lawyers who have devoted much study to the problems of juvenile and family courts, and Katharine F. Lenroot, of the Children's Bureau.

Descriptive material concerning 26 courts with special organization for dealing with family cases constitutes the supporting data for the section of this report entitled "Family Courts and Courts of Domestic Relations in Action" (p. 34). Publication of this material, together with a statistical study of families dealt with in juvenile and domestic-relations cases in Hamilton County, Ohio, and Philadelphia, Pa., now being included as Appendix B of this report, has been greatly delayed, first because of pressure of emergency work and second because of limitation of printing funds. A few copies of the report describing the individual courts are available in manuscript form for loan to students of family-court problems. The list of references included as Appendix B in the first edition has been revised and is being mimeographed.

Although great diversity is found in the organization and administration of juvenile courts, there is fairly general agreement among specialists regarding the broad principles which should govern their jurisdiction and procedure. No such condition prevails with reference to so-called family courts or courts of domestic relations, although the need for development of constructive service to families coming to the attention of the courts because of domestic difficulties is more widely recognized each year. Proposals for legislation often lack an adequate basis of information concerning the operation of existing court systems and the legal framework and social setting in which the new courts must find their place. The study was undertaken in the hope that it might help to meet this need.

Throughout the study the domestic relations court committee of the National Probation Association, the National Association of Legal Aid Organizations, and the National Desertion Bureau have been consulted. The report was read in manuscript by the following judges or former judges of juvenile or family courts: Hon. L. B. Day (Omaha), Hon. Charles W. Hoffman (Cincinnati), Hon. Paul W. Guilford and Hon. Edward F. Waite (Minneapolis), Hon. Samuel O. Murphy (Birmingham), Hon. James Hoge Ricks (Richmond); and

by the following probation officers: Mary E. McChristie, referee and supervisor, delinquent girls' department, court of domestic relations, Cincinnati; Fred R. Johnson, recorder's court, Detroit; and Patrick J. Shelly, magistrates' courts, New York City. Prof. Felix Frankfurter and the late Prof. Ernst Freund, of the law schools of Harvard University and the University of Chicago; Dr. Sheldon Glueck, department of social ethics, Harvard University; Charles L. Chute, general secretary, National Probation Association; John S. Bradway, secretary, the National Association of Legal Aid Organizations; Charles Zunser, secretary, National Desertion Bureau; Judge W. Bruce Cobb, secretary, courts committee, Brooklyn Bureau of Charities; and Frank E. Wade, attorney and former member of the New York State Probation Commission, Buffalo, also read the manuscript.

The bureau is deeply indebted to these authorities for their careful consideration of the report and their valuable criticisms. The suggestions made were considered by a small group called together by the National Probation Association, April 25, 1928, and certain of them have been incorporated in the report. The principal conclusions were presented at the annual conference of the National Probation Association held in Memphis, April 30 to May 2, 1928, and were indorsed in resolutions adopted by the association.

Since the publication of the first edition of the report the domestic-relations court of Multnomah County, Oreg., has been reorganized and given much broader jurisdiction; a state-wide domestic relations court act has been enacted in New Jersey; a court with juvenile and domestic-relations jurisdiction has been established for Mecklenburg County, N. C., and authorized for Forsyth County in the same State; and by a law just passed in New York State the New York City children's court and the domestic-relations work of the magistrates' courts have been combined into a family court of juvenile and limited adult jurisdiction. The tabulation in Appendix A of family courts and courts of domestic relations in the United States of which the Children's Bureau has information has been revised, and elsewhere in the text certain references have been made to recent developments. Although administrative changes—for the most part improvements—in personnel and methods have been made in some of the courts, they have not been so general nor so substantial as greatly to affect the general findings presented in 1929.

Respectfully submitted.

GRACE ABBOTT, *Chief.*

Hon. FRANCES PERKINS,
Secretary of Labor.

THE CHILD, THE FAMILY, AND THE COURT

INTRODUCTION

CHANGING CONCEPTIONS OF THE FUNCTION OF LAW AND THE ADMINISTRATION OF JUSTICE

A deep and general interest has developed during recent years in the operation of law where it impinges upon the problems of family life. Court systems and processes have been studied and seriously criticized in relation to the treatment of such questions as the delinquency and dependency of children, offenses against children, desertion and nonsupport, divorce, annulment of marriage, the establishment of paternity, and adoption and custody. In the consideration of problems such as these all society is vitally interested. What is the function of law in their treatment? How is it endeavoring to perform its function? What steps shall be taken to remedy such deficiencies as exist?

A number of elements unite to make these questions of peculiar importance in the United States at the present time: (1) Legal theory is entering a new stage of development, the era of "sociological," or "social," jurisprudence, in which it will consider more than ever before the realization of human interests. (2) There is a growing pressure from the cities for organization of justice and improvement of legal procedure to meet the exigencies of urban development. (3) The jurisdictions of the courts overlap, and different judges pass upon different angles of what is really one problem of family life. (4) A new judicial technique is developing, in which the courts rely in large part upon such nonlegal sciences as medicine and psychology. (5) The last quarter century has witnessed the establishment of a number of special and in many respects novel tribunals, including particularly juvenile courts and courts of domestic relations.

SOCIAL JURISPRUDENCE

Before the beginning of the present century legal thinkers began to realize that too much of a gap existed between the methods of jurisprudence and those of other social sciences. There was a reaction from the schools of legal thought represented by Maine and Austin,[1] which regarded law from either the standpoint of history or that of logical analysis. Law, it was felt, must be oriented to life. The point of view of both bench and bar was too narrow, as was pointed out by Mr. Justice Holmes when he was a member of the Supreme Court of Massachusetts:

> I think that the judges themselves have failed adequately to recognize their duty of weighing considerations of social advantage. The duty is inevitable, and the result of the often proclaimed judicial aversion to deal with such

[1] See Ancient Law; Its Connection with Early History of Society and Its Relation to Modern Ideas, by Henry James Sumner Maine (1822-1888) (Henry Holt & Co., New York, 1907), and Lectures on Jurisprudence, by John Austin (1790-1859) (Soney & Sage, Newark, N. J.).

considerations is simply to leave the very ground and foundation of judgments inarticulate and often unconscious, as I have said. When socialism first began to be talked about the comfortable classes of the community were a good deal frightened. I suspect that this fear has influenced judicial action both here and in England, yet it is certain that it is not a conscious factor in the decisions to which I refer. I think that something similar has led people who no longer hope to control the legislatures to look to the courts as expounders of the constitutions and that in some courts new principles have been discovered outside the bodies of those instruments, which may be generalized into acceptance of the economic doctrines which prevailed about 50 years ago and a wholesale prohibition of what a tribunal of lawyers does not think about right. I can not but believe that if the training of lawyers led them habitually to consider more definitely and explicitly the social advantage on which the rule they lay down must be justified, they sometimes would hesitate where now they are confident and see that really they were taking sides upon debatable and often burning questions.[2]

The efficiency of the law is being more and more considered not according to the theoretical accuracy of its philosophy but in the light of its results.

Our philosophy will tell us the proper function of law in telling us the ends that law should endeavor to attain; but closely related to such a study is the inquiry whether law, as it has developed in this subject or in that, does in truth fulfill its function—is functioning well or ill. The latter inquiry is perhaps a branch of social science calling for a survey of social facts rather than a branch of philosophy itself, yet the two subjects converge, and one will seldom be fruitful unless supplemented by the other. "Consequences can not alter statutes but may help to fix their meaning." We test the rule by its results.[3]

The purpose of "sociological jurisprudence" is succinctly stated by its foremost expounder, Dean Pound, of the Harvard Law School: "The main problem to which sociological jurists are addressing themselves to-day is to enable and to compel lawmaking, and also interpretation and application of legal rules, to take more account, and more intelligent account, of the social facts upon which law must proceed and to which it is to be applied."[4]

CITIES AND THE LAW

This new point of view has made it apparent that, while the substantive doctrines of the common law and the court systems of the United States are the product of the late eighteenth and early nineteenth centuries, the rise of cities and the decided urban trend present new and acute problems with which the judges of a century ago were not confronted. It is indeed true that "our largest city now contains in 326 square miles a larger and infinitely more varied population than the whole 13 States when the Federal judicial organization, which has so generally served as a model, was adopted."[5] A recent report states:

When the latest census figures were published we learned that for the first time in our history the population of the United States had become predominantly urban. By 1920 more than half of our people had become dwellers in cities, and this development proceeds apace with no sign of abating. From 1790 to 1800, while the structural framework of our present legal system was being securely laid, there were only six cities or towns that could boast of more

[2] Holmes, Oliver Wendell: The Path of the Law. Harvard Law Review, vol. 10, No. 8 (Mar. 25, 1897), pp. 467–468.
[3] Cardozo, Benjamin Nathan: The Growth of the Law, p. 112. Yale University Press, New Haven. 1924.
[4] Pound, Roscoe. Scope and Purpose of Sociological Jurisprudence. Harvard Law Review, vol. 25, No. 6 (April, 1912), pp. 512–513.
[5] Pound, Roscoe: The Administration of Justice in the Modern City. Harvard Law Review, vol. 26, No. 4 (February, 1913), p. 303.

than 8,000 inhabitants, and their aggregate population was only 4 per cent of the total population of the country. The most recent census statistics reveal that American civilization, taken as a whole, has definitely passed from the simpler conditions of agricultural and frontier life to the complex, intricate, and more ruthless conditions of an industrialized society.[6]

It has been pointed out in this same report that in 1918 there were about 37,500,000 people in the United States with incomes from any source whatever, of whom more than 20,250,000 had incomes of less than $1,200 a year; and the authors question whether many of these 20,250,000 are able to avail themselves of those equal rights before the law which are the proudest boast of American liberty. Three factors are specified that "impede the even course of justice when its protection is sought by a wage earner or by any person of small means"—delay, the expense involved in the payment of court costs and fees, and the necessity of employing lawyers.[7] William Howard Taft, Chief Justice of the United States Supreme Court, has said:

I think that we shall have to come, and ought to come, to the creation in every criminal court of the office of public defender, and that he should be paid out of the treasury of the county or the State. I think, too, that there should be a department in every large city, and probably in the State, which shall be sufficiently equipped to offer legal advice and legal service in suits and defenses in all civil cases, but especially in small-claims courts, in courts of domestic relations, and in other forums of the plain people.[8]

The general realization of the significance of this urban development in relation to the problems of the law is shown by still another highly important recent study: In January, 1921, the Cleveland Foundation committee authorized a survey of criminal justice in that city. The report of the survey, which was in charge of Dean Roscoe Pound and Mr. Felix Frankfurter, professor of administrative law, both of the Harvard Law School, shows the deficiencies of the administration of criminal law in a typical large American city.[9] In his summary Dean Pound points out the following problems for solution: Reshaping of the substantive criminal law, organization of the administration of justice, unification of courts, organization of the prosecuting system, organization of administrative agencies, adequate provision for petty prosecutions, preventive methods, justice in family relations, and the unshackling of administration.

OVERLAPPING JURISDICTION

It has been charged repeatedly in recent years that the courts, particularly in the larger cities, are doing piecemeal justice in the domain of domestic relations. The arraignment has been phrased by Dean Pound as follows:

Two signal cases of waste of judicial power, the multiplicity of independent tribunals, and the vicious practice of rapid rotation which prevails in the great majority of jurisdictions, whereby no one judge acquires a thorough experience of any one class of business, may only be noticed. As an example of the possibilities of the first it has been observed that in Chicago to-day, at one and the same time, the juvenile court, passing on the delinquent children; a court of equity, entertaining a suit for divorce, alimony, and the custody of children;

[6] Growth of Legal Aid Work in the United States, by Reginald Heber Smith, of the Boston bar, and John S. Bradway, of the Philadelphia bar, with preface by William Howard Taft, Chief Justice, United States Supreme Court, p. 1. U. S. Bureau of Labor Statistics Bulletin No. 398. Washington, 1926.
[7] Ibid., pp. 7, 16–17.
[8] Ibid., p. iv.
[9] Criminal Justice in Cleveland; Reports of the Cleveland Foundation Survey of the Administration of Criminal Justice in Cleveland, Ohio. Directed and edited by Roscoe Pound and Felix Frankfurter. Cleveland Foundation, Cleveland, Ohio, 1922.

a court of law, entertaining an action for necessaries furnished an abondoned wife by a grocer; and the criminal court or domestic-relations court, in a prosecution for desertion of wife and child—may all be dealing piecemeal at the same time with different phases of the same difficulties of the same family.[10]

A NEW JUDICIAL TECHNIQUE

The technique worked out by the common law for the attainment of justice in court is based upon the presentation of the evidence and argument by opposing attorneys before a judge who decides each case according to established principles on the legally admissible evidence of the witnesses. To-day in a juvenile court or a court of domestic relations much of the evidence is taken outside the court by court officials, and it is based in great part on medicine, psychiatry, and the impressions of trained observers. There may be no lawyers—the judge represents both parties and the law. In a juvenile-court proceeding the prosecuting officer as a general rule has no place, and in the domestic-relations court he often acts as a friend of the accused. Social environment is given consideration. The probation officer occupies a position of great importance, furnishing "an impartial investigating service."[11] These are not the methods of the old common law; they are the instruments forged by a jurisprudence which realizes that law, like medicine, is social engineering.

NEW COURTS

With the development of a new legal technique has come the establishment of new tribunals. Courts of small claims and municipal courts have swept away certain of the formalities of common-law pleading. Workmen's compensation commissions not only are based upon a legislative departure from common-law principles of master and servant but are working out a procedure as flexible as their conception is sound. Public-service commissions have accustomed the public to decisions affecting the fundamentals of modern existence based upon broad economic policies rather than legal precedents. Juvenile courts represent a growth in legal theory rather than a departure from it; but their methods in dealing with children are for the most part unknown to common-law procedure or to chancery procedure.[12] Courts of domestic relations already exist in a number of cities and deal in various degrees with problems of family life that come to the attention of judicial agencies.

The existence of these courts, particularly of the juvenile and domestic-relations courts, has heightened public interest in the problems with which they deal. Dicey has pointed out that—

> Laws foster or create law-making opinion. This assertion may sound, to one who has learned that laws are the outcome of public opinion, like a paradox, when properly understood it is nothing but an undeniable though sometimes neglected truth * * *. Every law or rule of conduct must, whether its author perceives the fact or not, lay down or rest upon some general principle, and must, therefore, if it succeeds in attaining its end, commend this principle to public attention or imitation, and thus affect legislative opinion.[13]

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[10] Pound, Roscoe: The Administration of Justice in the Modern City. Harvard Law Review, vol. 26, No. 4 (February, 1913), p. 313.

[11] Eliot, Thomas D.: The Juvenile Court and the Educational System. Journal of Criminal Law and Criminology, vol 14, No. 1 (May, 1923), pp. 25-45.

[12] See The Legal Aspect of the Juvenile Court, by Bernard Flexner and Reuben Oppenheimer, p. 21 (U. S. Children's Bureau Publication No. 99, Washington, 1922).

[13] Dicey, Albert Venn: Lectures on the Relation between Law and Public Opinion in England during the Nineteenth Century (second edition), p. 41. Macmillan Co., New York, 1914.

A study of the operation of the law upon the problems of human relationship must, it is obvious, be pragmatic, entered into without preconceived theories and based upon factual observation. The problems of family life run through the substantive law, as they run through all society. If a study of their treatment by the law meets the same difficulty that is encountered in the writing of history, which Maitland compared to tearing a seamless web,[14] it is also true that tearing the web of law is likely to produce a cross section of the interrelations between the workings of justice and the life of the community. Finally, in a study of the efficiency of judicial agencies it is necessary to keep in mind the demarcations of the field in which the law can hope to operate efficiently.

PURPOSE AND METHOD OF STUDY

As the field of the Children's Bureau is naturally limited to questions affecting the welfare of children, and as the primary concern of the public in family relationships is the care and protection of children, this study has been planned to cover those cases—and only those cases—in which the status or welfare of children is necessarily and primarily affected,[15] including the following:

1. Children's cases covered by juvenile-court laws, including cases of delinquent, dependent, and neglected children.
2. Offenses against children, including contributing to delinquency and dependency and specified crimes against children.
3. Cases of desertion and nonsupport of children.
4. Cases of divorce and separate maintenance when children are involved.
5. Proceedings for the establishment of paternity and the enforcement of support of children born out of wedlock.
6. Children's cases usually within the jurisdiction of the probate courts, including adoption, guardianship of the person, and commitment of mentally defective and insane children.

This classification corresponds closely to that proposed by a committee of the National Probation Association in 1917 as the jurisdiction that should be vested in family courts, except that the committee report recommended the inclusion of cases of divorce and of desertion and nonsupport where wives only were involved. (See p. 15.) In most of the States jurisdiction over these classes of cases is greatly divided at the present time, and in many of them the same class of case may be handled by a number of different courts.

The aim of this study is to show: (1) The place of specialized family courts in the juridical structure; (2) the development of specialized courts dealing with juvenile and family problems; (3) the

[14] "Such is the unity of all history that anyone who endeavors to tell a piece of it must feel that his first sentence tears a seamless web." Pollock, Frederick, and Frederick William Maitland: The History of English Law Before the Time of Edward I (second edition), vol. 1, p. 1 Little, Brown & Co., Boston, 1899.

[15] Excluding child-labor cases, in which the action is usually against the employer.

present judicial organization for dealing with these problems; (4) the proportion of cases of delinquency and dependency which also involve cases of other types (for example, problems of nonsupport or desertion); (5) the organization and methods of work of courts especially established to deal with the cases included in the study and the extent to which they are equipped to give constructive social service; and in the light of these facts to determine the general outlines of a program for more effective judicial organization in this field.

In order to obtain information concerning statutory provisions relating to jurisdiction and procedure, a compilation was made of pertinent sections of the laws of each State and Territory under the headings suggested by the list of types of cases, with additional general material concerning jurisdictional provisions, probation and parole, and compensation to prisoners. For subjects covered by existing compilations or summaries only brief summaries of the most essential points were prepared. The laws were then summarized State by State, according to the same outline as that used in the compilation. This material furnished basic information for the studies of court systems in selected communities and was also used in the preparation of a chart, which has been published separately,[16] showing for each State the courts having jurisdiction over cases covered by the study.

Statistical studies of families dealt with in juvenile and domestic-relations cases were made by the Children's Bureau in Hamilton County, Ohio, and in Philadelphia, that in the latter city being made in cooperation with the statistical department of the Philadelphia municipal court. These communities were selected because the organization and record systems of the courts dealing with the majority of family and children's cases made such information relatively easy to obtain and because in Philadelphia valuable assistance was offered by the statistical department of the court.

The descriptive material regarding courts with special organization for dealing with family cases was obtained by visits to nearly all these courts.[17] The first visits were made in the fall of 1923 and the last in June, 1927. Data concerning the courts first studied have been supplemented through later visits or through correspondence and study of their annual reports. Because of the limitations of the inquiry it was possible to make only comparatively brief visits to the courts. Thorough study of the case work done was not attempted, but information was obtained for each court concerning jurisdiction, personnel (including method of appointment, salaries, qualifications, assignment of work, volume of work of individual officers), methods

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[16] Analysis and Tabular Summary of State Laws Relating to Jurisdiction in Children's Cases and Cases of Domestic Relations in the United States, by Freda Ring Lyman. U. S. Children's Bureau Chart No. 17. Washington, 1930. (Exhausted. Available only in libraries.)

[17] Information was obtained concerning 26 courts in the following cities and counties: (1) Four family courts with juvenile and broad adult jurisdiction: Hamilton County (Cincinnati), Mahoning County (Youngstown), Montgomery County (Dayton), Summit County (Akron), Ohio. (2) Five family courts with juvenile and limited adult jurisdiction: Jefferson County (Birmingham), Ala.; Multnomah County (Portland), Oreg.; Norfolk, Va.; Richmond, Va.; St. Louis, Mo. (3) Five domestic-relations courts without juvenile jurisdiction: Boston, Mass.; Buffalo, N. Y.; Chicago, Ill.; New York City; Newark, N. J. (4) Eight juvenile courts with broad jurisdiction: District of Columbia; Denver, Colo.; Dutchess County, N. Y.; Essex County (Newark), N. J.; Hudson County (Jersey City), N. J.; Marion County (Indianapolis), Ind.; New York City; Rockland County, N. Y. (5) Four municipal and district courts that have juvenile and domestic-relations jurisdiction and special organization for domestic-relations work: Douglas County, (Omaha), Nebr.; Polk County (Des Moines), Iowa; Philadelphia, Pa.; Springfield, Mass. (By 1929 legislation the court of Multnomah County, Oreg., now belongs in the first group and the New Jersey courts belong in the second group.)

of receiving complaints and of adjusting cases without court hearing, methods of investigation, hearings, court orders, probation, and other follow-up work.

The present report gives a general view of the legal aspects of the subject, of the efforts made to provide methods of organization and treatment adapted to modern conditions, and of the degree of success attained, together with suggestions as to the general principles that should govern the establishment of new courts or the reorganization of existing courts.

THE SUBSTANTIVE LAW OF DOMESTIC RELATIONS

Blackstone, writing in the middle of the eighteenth century, declared that there are three great relations in private life: Master and servant, husband and wife, and parent and child. To these he added the legally created relation of guardian and ward. The industrial revolution has changed in large part the relation of master and servant to one of employer and employee and thus removed this contact from the field of domestic relations; otherwise Blackstone's classification is still generally followed.

It is impossible even to outline in a few pages all the doctrines that constitute the law of domestic relations.[1] Courts are only the medium through which law is put in force. Changes in procedure, however radical and far-reaching, are changes only in the way legal principles are administered. It is advisable before considering courts and procedure dealing with the law of domestic relations to consider briefly some of the doctrines of the law itself.

HUSBAND AND WIFE

The creation of the marital relation requires, first, a valid contract between the parties; this implies that they are able to understand and that they do understand what they are doing. Second, they must be persons whom the law permits to enter the marital status; they must be physically competent and of proper age, and there must be no bar of consanguinity or race. Third, they must enter the status in the manner provided by law; in almost all the States there must be a religious ceremony or a civil ceremony and the giving of public notice or the issuance of a license, as may be required by the particular jurisdiction.

In the United States the various requirements and disqualifications are generally fixed by statute and vary in the different States, so that cases for the annulment of marriage often involve questions of conflict of State laws. As to questions of contractual capacity the law of the State where the ceremony was performed is generally held to govern; but if the laws of the State in which one or both of the parties were domiciled at the time of the marriage prohibit it on some ground of public policy, the marriage is generally held invalid even though it was valid in the State in which the ceremony took place.

The rights conferred by the marital relation at common law have been considerably altered by statutes. It is no longer true, as it was in Blackstone's day, that "the very being or legal existence of

[1] For good textbook discussions see A Treatise on the Law of Marriage, Divorce, Separation, and Domestic Relations, by James Schouler, Sixth Edition by Arthur W. Blakemore (Matthew Bender & Co., Albany, N. Y., 1921), Handbook on the Law of Persons and Domestic Relations, by Walter C. Tiffany, Third Edition by Roger W. Cooley (West Publishing Co., St. Paul, Minn., 1921); Cases on the Law of Persons and Domestic Relations, by William Edward McCurdy, vol. 1 (Callaghan & Co., Chicago, 1926); and Cases on Domestic Relations, by Joseph Warren Madden (West Publishing Co., St. Paul, Minn., 1928).

the woman is suspended during the marriage." At common law and under many of the statutes the husband is under the legal duty to support and maintain his wife according to his station in life and to his means. He is not relieved from this liability because the wife has separate means. In most States the statutes give a wife who has been deserted by her husband or who is living apart from him because of his fault the right to bring a civil action for maintenance. In many States, likewise, for a husband to leave his wife without means of support is made a criminal offense.

With certain exceptions, sometimes recognized when the wife leaves the husband because of his fault, the domicile of the wife merges with that of the husband and changes with his.

The rights of husband and wife in each other's property during life and the rights of one at the other's death, the validity and effect of prenuptial and postnuptial settlements, the rights of husband and wife to contract, as affected by marriage, though fixed by the common law, have all been greatly modified by statute. In general, disabilities of married women have been removed; they can contract freely in their own interest, and can own, acquire, use, and enjoy property of their own. A number of States have the institution of "community property" derived from Spanish law, in which, especially with respect to property acquired after marriage, husband and wife are treated as a property-owning entity.

Divorce is of two kinds: Divorce a mensa et thoro, which suspends the effect of marriage so far as cohabitation is concerned, and divorce a vinculo, which dissolves the marriage. Whether or not divorce is to be allowed, and if it is, upon what grounds, are determined by the laws of each State.

PARENT AND CHILD

A child is legitimate at common law when he was born or begotten during the lawful marriage of his parents. Statutes in this country generally make a child legitimate also when his parents marry subsequently to his birth. As a general rule the legitimacy or illegitimacy of a child is determined by the law of his parents' domicile at the time of birth.

Adoption was unknown to the common law but is generally recognized in the United States by statute. In general the consent of the parents of the child or of the surviving parent must be had to an adoption, unless they have abandoned the child or have forfeited the right to custody. Judicial proceedings are generally necessary for adoption. With few exceptions adoption places the parties in the legal relation of parent and child.

The rights of children to inherit from their parents vary according to the statutes of each State. There is usually a distinction between the rights of legitimate and of illegitimate children.

Whereas at common law it was occasionally held that a parent is under no legal obligation to support his children, the obligation to support minor children is now generally imposed upon the parent, either by the common law or by statute. In most States failure of the parent to support his minor children is made a criminal offense. By the weight of authority the obligation of the parents to support their children is not affected by divorce.

A father was under no legal obligation to support his illegitimate children at common law, but to-day he is generally chargeable with their maintenance by statute. In most States the mother has a statute remedy to enforce support from the father; this remedy is generally known as "bastardy proceedings," though the tendency is to substitute the term "illegitimacy proceedings" or "proceedings for the establishment of paternity."

A parent is under the legal duty to protect his children and generally has the right to their services and earnings. But the common law recognizes no legal obligation of the father to educate them.

The custody of children belonged under common law to the father, and upon his death it belonged to the mother. To-day statutes usually give the juvenile courts jurisdiction to remove children from their parents' custody when the unfitness of the children's surroundings is clearly apparent. Such statutes represent growth in common-law doctrines rather than a departure from them,[2] and their constitutionality has been almost uniformly upheld. Juvenile-court statutes also give the courts power to remove delinquent children from the custody of their parents.

In case of divorce the custody of the children is determined according to the circumstances of each case and may be changed from time to time by decree.

The domicile of a legitimate child is that of his father, at least before he is emancipated; the domicile of an illegitimate child is usually that of his mother.[3] Upon divorce the parent to whom the child is awarded has the power to fix the child's domicile. Under the doctrine that the sovereign through his proper court is the protector of every person within his jurisdiction who needs protection, it has been held that a court may take away a foreign child from his parent or proper domiciliary guardian.

Offenses against children are strictly part of the criminal law, not of the law of domestic relations. Such offenses include not only actual attacks and mistreatment but, under statutes, causation of or contributing to a child's delinquency or dependency. Statutory actions of this kind generally lie not only against parents, guardians, or persons having custody but against strangers as well. Infants have certain contractual rights and disabilities, which are sometimes treated as part of the law of domestic relations but which are outside the scope of this study.

To prevent future dependency and to recognize the State's interest in children many statutes provide for pecuniary aid to mothers who can not support their children and whose husbands are dead, have abandoned them, or are not in a position to aid in their children's support. Such aid, frequently called "mothers' pensions," is in some States under the jurisdiction of a court; in others under that of an administrative board.

GUARDIAN AND WARD

The law often intrusts the person or the estate of an infant to a person other than the parent. Children have always been regarded

[2] See, for example, the case of Shelley *v.* Westbrooke (Jac. 266), in which Shelley was deprived of the custody of his children because he declared himself an atheist.

[3] In Minnesota, however, complaint in proceedings to establish paternity may be filed in the county of the mother's residence, that of the alleged father's residence, or that in which the child is found if he is likely to become a public charge upon the county (Gen. Stat. 1923, sec. 3261.)

as the wards of chancery, and there are early instances in which equity acted to protect unfortunate minors even when no property right was involved, although the early chancery jurisdiction was generally exercised when some property interest was at stake. A guardian is often named for children by will or deed. A court within whose jurisdiction the minor lives or has property may appoint a guardian for such minor. Unlike a parent, a guardian is not entitled to his ward's services and earnings. He is a trustee, and usually he must account from time to time for his ward's estate to the court which appoints him.

Juvenile-court statutes generally provide for the commitment of dependent or neglected children to persons, institutions, or societies that will give them proper care. When a child is committed to the guardianship of an individual or an institution the proceeding is not equivalent to an adoption but is only a police measure of the State, affecting the incidents but not the existence of the legal status between parent and child. Such a guardian has no rights over the property of the child but has certain rights over his person.[4]

[4] Courts are given statutory authority to appoint guardians for persons of unsound mind and for inebriates as well as for children.

SPECIALIZED COURTS DEALING WITH FAMILY PROBLEMS

THE JUVENILE COURT

As early as 1890 children's courts were introduced in South Australia by ministerial order, and they were subsequently legalized under a State act in 1895. Legislation looking to the same end was passed in the Province of Ontario, but practically nothing was done under it. Before this date Massachusetts, New York, and several other American States had statutes providing for the separate hearing of children's cases. Adult probation had been in use in Massachusetts for many years, but in 1899 laws were passed in Illinois and in Colorado under which the first real juvenile courts in the United States were established in Chicago and Denver.[1]

Since that time all the States except two—Maine and Wyoming—have adopted legislation providing special court organization for dealing with juvenile cases. Every city in the country with a population of 100,000 or more has a court especially organized for children's work.[2]

What are the basic conceptions that distinguish juvenile courts from other courts?

Children are to be dealt with separately from adults. Their cases are to be heard at a different time and preferably in a different place. The children are to be detained in separate buildings. If institutional guidance is necessary they are to be committed to institutions for children. Through its probation officers the court can keep in constant touch with the children who have appeared before it. Taking children from their parents is, when possible, to be avoided; on the other hand, parental obligations are to be enforced. The procedure of the court must be as informal as possible. Its purpose is not to punish but to save. It is to deal with children not as criminals but as persons in whose guidance and welfare the State is peculiarly interested. Save in the cases of adults, its jurisdiction is equitable, not criminal, in nature.[3]

It is probably the most remarkable fact in the history of American jurisprudence that these conceptions were adopted almost universally in less than 25 years. The initial battle was hard, but the victory, so far as nominal acceptance of the fundamental ideas of the juvenile court is concerned, has been almost complete. Legal writers, legislatures, lawyers, and laymen have come to recognize that the law must differentiate in its treatment of adults and of children.

How far these conceptions have been put into successful practice is another matter. For the present it is enough to state that they have been proved workable. It is interesting to note, however, that

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[1] Flexner, Bernard, and Roger N Baldwin: Juvenile Courts and Probation. Century Co., New York, 1914.

[2] Lenroot, Katharine F., and Emma O. Lundberg: Juvenile Courts at Work; A Study of the Organization and Methods of Ten Courts. U. S. Children's Bureau Publication No. 141. Washington, 1925. (Exhausted. Available only in libraries.) In 1931 Maine passed a law extending the jurisdiction of municipal courts over offenses committed by children under 15 years of age and providing certain special procedure in these cases. (Act of Apr. 3, 1931, ch. 241, Laws of 1931, p. 273.)

[3] See The Legal Aspect of the Juvenile Court, pp. 8–9.

their growth has been in the way of a circle. In the beginning few doubted that the law should treat adults and infants in most respects the same. Then it was seen that the law must provide special treatment for children. To-day the vanguard of thought is recognizing that many of the principles of socialized treatment—such as study of the characteristics of the individual and the environment in which he lives and constructive supervision during probation—are applicable and should be extended gradually to the whole field of criminal justice and in part to certain questions of domestic relations now dealt with under civil procedure. Thus, in these respects at least, adults and infants are again treated alike.

THE FAMILY COURT OR COURT OF DOMESTIC RELATIONS

HISTORY

Partly as a result of the extension of the ideas underlying juvenile courts and partly as a result of the development of probation in criminal cases a number of new tribunals have been created. They are referred to generally as "courts of domestic relations" or "family courts." This movement has progressed along two different lines which have tended to converge in the family courts of the broadest jurisdiction.

The earliest development was the extension of the jurisdiction of juvenile courts. The first juvenile courts were given jurisdiction over children's cases only. Very early the necessity that the court have power to deal with certain types of closely related adult cases became apparent. Colorado enacted in 1903 special legislation making contributing to delinquency or dependency an offense within the jurisdiction of the juvenile court. Nearly all juvenile courts now have jurisdiction over certain types of adult cases, though the nature of this jurisdiction varies greatly from State to State. The juvenile-court standards drafted by a committee appointed by the United States Children's Bureau and adopted by a conference held under the auspices of the Children's Bureau and of the National Probation Association in 1923 recommended that cases of contributing to delinquency or dependency, nonsupport or desertion of minor children, and determination of paternity and the support of children born out of wedlock, as well as adoption cases and cases of children in need of protection or custodial care by reason of mental defect or disorder, should be brought within the jurisdiction of the juvenile court.[4]

In 1910 a domestic-relations division was established in the city court at Buffalo, under the provision in the law creating the city court [5] which authorized the chief judge of this court to determine the parts into which the court should be divided. This domestic-relations division had jurisdiction over all criminal business relating to domestic or family affairs, including bastardy cases.[6] Cases of wayward minors between the ages of 16 and 20 years, inclusive, also were

[4] Juvenile Court Standards; report of the committee appointed by the Children's Bureau, August, 1921, to formulate juvenile-court standards, adopted by a conference held under the auspices of the Children's Bureau and the National Probation Association, Washington, D. C., May 18, 1923. U. S. Children's Bureau Publication No. 121. Washington, 1923.

[5] N. Y., act of May 29, 1909, ch. 570, Laws of 1909, pp. 1654-1659.

[6] Jurisdiction in bastardy cases was transferred to the Erie County court by act of Apr. 15, 1926, ch. 386, Laws of 1926, p. 703, which amended ch. 14 of the Consolidated Laws as added by act of Apr. 1, 1925, ch. 255, sec. 1, Laws of 1925, p. 508

assigned to this division. A law of 1924 specifically authorized the establishment of a domestic-relations court as part of the city court, and equity jurisdiction as well as criminal jurisdiction was conferred upon this court as authorized by the constitution of New York State.[7] In several cities the example of Buffalo in setting apart by law or rule of court a division of a municipal court to deal with domestic-relations cases, chiefly nonsupport and desertion, has been followed. In discussing this type of court Mr. Frank E. Wade, of Buffalo, for many years a member of the New York State Probation Commission, has said:

> During the past 10 or 15 years three distinct court systems or procedures, all related under various names and dealing exclusively with the family, have been enacted into law in many parts of the United States. The earliest was the so-called domestic-relations court. This in the main has been an inferior criminal court, having exclusive jurisdiction of nonsupport and assault cases between husbands and wives. Taking family trouble out of the slime of the old police court was at the time considered a great step forward. Many of these courts are functioning in all parts of the United States and doing a splendid work, especially through the probation departments, in enforcing support orders.[8]

The Chicago court of domestic relations, a branch of the municipal court, is of the same general type as the Buffalo court. In 1921 Judge Harry A. Fisher, then a judge of the municipal court, outlined the advantages of these courts as follows:

> The advantages of having such a court are in the main the possibility of establishing a social-service department in connection with it, which is required to make investigation of cases and when possible to avoid bringing these matters before the court either by effecting reconciliations or by obtaining voluntary contributions for the support of the families, and to look after a proper collection of the money ordered for the support of wife or child. A separate court for these matters also develops expertness on the part of the judge who is assigned to preside over it. It separates these cases from the other cases that are usually brought before the criminal branches of the court, and, above all, makes it possible to treat these cases from a social point of view. The proceedings are less formal, and the court is not limited to the trial of bare issues of fact. It is in a position to call to its aid the numerous private social agencies which exist in the city and which are able to help solve many domestic problems. In fact, our court has become much more a great social agency than a court. The judicial power is resorted to only where coercion is necessary.[9]

In 1914 the first family court in the United States to exercise jurisdiction over both domestic-relations and juvenile cases was created in Hamilton County (Cincinnati), Ohio, as a division of the court of common pleas. For the first time divorce cases were brought under the jurisdiction of a court especially organized to deal with cases affecting child welfare and family life. Similar courts have been established in six other Ohio counties and in certain other communities, and the Cincinnati court has been regarded generally as the pioneer in the movement for family courts as distinguished from domestic-relation courts with adult jurisdiction only.

The aim of the family court, in the language of Judge Charles W. Hoffman, of the domestic-relations court of Cincinnati, Ohio, a leader in the movement for their establishment, is provision "for the consideration of all matters relating to the family in one court of exclusive

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[7] N. Y., act of Apr. 25, 1924, ch. 424, Laws of 1924, p. 777, adding Art. III A (sec. 80) to Laws of 1909, ch. 570, in accordance with Art. VI, sec. 18, of the constitution as amended by concurrent resolution of the senate (Apr. 8, 1921) and assembly (Apr. 16, 1921), Laws of 1921, pp. 2534-2535. Art. VI of the constitution was itself amended in 1925 (Laws of 1926, pp. 1583-1595).

[8] Discussion in Proceedings of the National Probation Association, 1924, p. 191.

[9] Quoted in Courts of Domestic relations, by Edward F. Waite (Minnesota Law Review, vol. 5, No. 3 (Febr uary, 1921), pp. 164-165).

jurisdiction, in which the same methods of procedure shall prevail as in the juvenile court and in which it will be possible to consider social evidence as distinguished from legal evidence. In fact, providing for a family court is no more than increasing the jurisdiction of the juvenile court and designating it by the more comprehensive term of family court." [10]

In 1917 a committee of the National Probation Association recommended the establishment of family courts with jurisdiction in the following classes of cases:

(*a*) Cases of desertion and nonsupport; (*b*) paternity cases, known also as bastardy cases; (*c*) all matters arising under acts pertaining to the juvenile court known in some States as the children's court, and all courts, however designated in the several States, having within their jurisdiction the care and treatment of delinquent and dependent children and the prosecution of adults responsible for such delinquency and dependency; (*d*) all matters pertaining to adoption and guardianship of the person of children; (*e*) all divorce and alimony matters.[11]

Commenting on this report, Judge Edward F. Waite has said:

In this grouping there appear to be three underlying ideas: The interest of the State in the conservation of childhood, the intimate interrelation of all justiciable questions involving family life, and the need for administrative aid in the wise solution of such questions.[12]

EXTENT OF THE FAMILY-COURT MOVEMENT [13]

The terms "family court" and "court of domestic relations" (often used interchangeably) indicate different types of organization, including at least the following:

1. *A family court of juvenile and broad adult jurisdiction, including children's cases, cases of divorce, desertion or nonsupport, and contributing to delinquency or dependency.*

The divisions of domestic relations in the courts of common pleas of Franklin, Hamilton, Lucas, Mahoning, Montgomery, Stark, and Summit Counties, Ohio, the domestic-relations courts of Multnomah County, Oreg. (by law of 1929), and of Cabell County, W. Va., and the division of domestic relations of the first circuit court of Hawaii are examples of this type.[14]

2. *A family court of juvenile and limited adult jurisdiction, including some of but not all the types of cases listed in paragraph 1.*

The juvenile and domestic-relations courts in New Jersey (by law of 1929) and Virginia (under state-wide systems) and in Jefferson and Montgomery Counties, Ala., also the domestic-relations court of Mecklenburg County, N. C. (by 1929 law), have jurisdiction over cases of desertion and nonsupport, but these courts do not have jurisdiction over divorce.[15] The domestic-relations court of St. Louis, Mo., on the other hand, has jurisdiction over divorce but not over desertion and nonsupport.

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[10] Hoffman, Charles W.: Social Aspects of the Family Court. Journal of Criminal Law and Criminology, vol. 10, No. 3 (November, 1919), pp. 409–422.

[11] Proceedings of the National Probation Association, 1917, p. 85.

[12] Waite, Edward F.: Courts of Domestic Relations. Minnesota Law Review, vol. 5, No. 3 (February, 1921), p. 167.

[13] See Appendix A, p. 67.

[14] A Tennessee law of 1929 (Private Acts of 1929, ch. 675), authorized a court of this type in Hamilton County, which, however, was held unconstitutional by the State supreme court Dec. 15, 1930 (Newton *v.* Hamilton Co., 161 Tenn. 634; 33 Sw. (2d) 419).

[15] The domestic-relations court of Monongalia County, W. Va., which was established in 1923 and went out of existence in 1929, belonged to this group (Laws of 1923, ch. 134; Laws of 1927, ch. 92). A North Carolina law of 1931 (ch. 221) authorized such a court in Forsyth County, but it was not established by 1933.

3. *A juvenile court of broad jurisdiction, not including jurisdiction over divorce.*

The outstanding example of courts of this type is that in Denver, Colo. Its jurisdiction includes children's cases, mothers' aid, adoption, contributing to delinquency or dependency, offenses against children, desertion or nonsupport, illegitimacy (action technically under the charge of contributing to dependency), and children whose custody is in controversy in divorce cases under a general provision relating to cases in which custody of a child is involved. The juvenile courts of Marion County, Ind., and of the District of Columbia also have broad adult jurisdiction. The New York State children's court act attempted to vest such jurisdiction in children's courts, but judicial decisions appear to have limited their jurisdiction in adult cases.[16] These are only a few of the juvenile courts that have broad jurisdiction. In 17 States and the District of Columbia the juvenile court has jurisdiction over cases of desertion and nonsupport; in 6 States and the District of Columbia it has jurisdiction over proceedings for the establishment of paternity; in 24 States and the District of Columbia it has jurisdiction over contributing to delinquency and dependency. In some of these States only certain juvenile courts have this jurisdiction.

4. *A domestic-relations court without juvenile jurisdiction and with adult jurisdiction over cases of desertion or nonsupport and sometimes illegitimacy and certain offenses against children (divorce not being included).*

The domestic-relations courts of Buffalo, Chicago, and Boston and the family courts of New York City and Newark are of this type. The Newark family court also has jurisdiction in morals cases; and cases of wayward minors are assigned to the Buffalo court, which has both equity and criminal jurisdiction.[17]

5. *A municipal or district court with juvenile and domestic-relations jurisdiction and special organization, by law or rule of court, for domestic-relations work.*

Among the courts of this type are the Philadelphia municipal court and the district court of Springfield, Mass., with separate juvenile and domestic-relations divisions, and the district courts of Douglas County, Nebr., and Polk County, Iowa,[18] with juvenile and domestic-relations divisions. The two latter courts, but not those of Philadelphia or Springfield, have divorce jurisdiction. Courts of this type may be established by rule of court without special legislation.

In this report the term "family court" will be used in general to indicate a court with combined juvenile and domestic-relations jurisdiction and the term "domestic-relations court" to indicate a court or division with jurisdiction over adult cases only. Individual courts will generally be referred to by the term used locally.

Unified probation departments, usually serving a county, have been established in a number of communities in which no unified family court has been created.[19] Through these departments that serve several courts a considerable degree of coordination in the social

[16] As In re Cole (212 App. Div. 427; 208 N. Y. S. 753), People *v.* De Pue (217 App. Div. 321; 217 N. Y. S. 205). As to family court see City of New York *v.* Kaiser (125 Misc. 637; 210 N. Y. S. 598).

[17] For provisions of a new law (1933) for New York City see Appendix A, p 67.

[18] See Appendix A, p. 67.

[19] See recommendation in Report to the Crime Commission of New York State of the Subcommission on Adjustment of Sentences, by W. Bruce Cobb, p. 30 (Albany, Feb. 28, 1927).

treatment of family problems can be accomplished. Ohio has a state-wide law authorizing the establishment of such departments at the option of the county.[20] New Jersey is organized on this basis. The probation department of Ramsey County, Minn., serving the St. Paul courts, is also an example of this type of coordinated service.[21] Programs of county organization for social work, designed primarily for rural communities and small cities, may make social service by a unified county department available to all the courts. For example, in North Carolina the county superintendent of public welfare is responsible for the probationary supervision of both children and adults.[22]

In spite of the diversity of organization indicated by these various types of courts described, the family-court movement, as has been shown, has gained wide recognition in the past 20 years. To summarize: In addition to the many States in which the juvenile court has more or less broad jurisdiction over domestic-relations cases, the family court combining juvenile jurisdiction with jurisdiction over certain types of adult cases has been established in the entire State in New Jersey and Virginia, in seven counties in Ohio, and in one or more communities in Alabama, Missouri, North Carolina, Oregon, West Virginia, and the Territory of Hawaii.[23]

The domestic-relations court with adult jurisdiction only has been established in parts of four States: Illinois, Massachusetts, New Jersey, and New York. In other States, including Iowa, Nebraska, and Pennsylvania, and also in Massachusetts, organization for juvenile and domestic-relations work has been developed by municipal, district, or superior courts.

FUNDAMENTAL PROBLEMS INVOLVED

It is apparent that the family court, or court of domestic relations, embodies two desires—first, to extend the new method of legal treatment of certain classes of cases, best exemplified in juvenile courts; second, to prevent duplication of jurisdiction by various tribunals. In other words, these new courts involve a problem of legal procedure and a problem of judicial organization.

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[20] Ohio, act of Mar. 24, 1925, Laws of 1925, p. 423, Code 1930, secs. 1554–1 to 1554–5.

[21] Doyle, John J., Chief Probation Officer, Ramsey County Courts, St. Paul, Minn.: The Family in Court—A Unified Probation Staff. Proceedings of the National Probation Association, 1926, pp. 59–63.

[22] See Public Child-Caring Work in Certain Counties of Minnesota, North Carolina, and New York, by H. Ida Curry (U. S. Children's Bureau Publication No. 173, Washington, 1927) and The County as an Administrative Unit for Social Work, by Mary Ruth Colby (U. S. Children's Bureau Publication No. 224, Washington, 1933).

[23] An Oklahoma law of 1925 (act of Apr. 11, 1925, ch. 128, Laws of 1925, p. 182) established family courts in counties of 90,000 population. The district judges of Tulsa County declined to assume jurisdiction, stating that, in their opinion, the law was unconstitutional, and no court has been established in Oklahoma County, the only other county of this size. An Alabama law of 1931 (No. 401) to create a court of domestic relations in counties of 105,000–300,000 inhabitants (Mobile County) with jurisdiction over juvenile cases, contributing to delinquency or dependency, nonsupport, and (for investigation only) divorce cases involving minor children was held unconstitutional on the ground that the procedure for its adoption violated the provision of the State constitution (sec. 106 of 1901) requiring publication of notice of intention to apply for passage of local laws (Kearley *v.* State ex. rel. Hamilton etc., 137 So. 424).

PROCEDURAL CHANGES IN SPECIALIZED COURTS

CONSERVATISM IN LEGAL PROCEDURE

It is a maxim of legal history that it is easier to effect a change in the substantive law than it is to effect a change in procedure. The natural conservatism of the bar is most in evidence when a change in the way cases are handled is proposed. Nor is this conservatism unjustified. Abstract justice becomes unimportant if the method of obtaining justice is not suited to the needs of the community. The common law was several centuries in working out its system of procedural rights. Almost from the first these procedural rights have been jealously guarded, as witness the construction of the phrases "law of the land" in Magna Charta, and "due process of law" in the fourteenth amendment to the United States Constitution. In view of this conservatism[1] the speedy adoption of the procedure involved in the establishment of juvenile courts is all the more remarkable.

EXAMPLES OF THE NEW PROCEDURE

Typical hypothetical cases before and after the establishment of the juvenile court will illustrate best the far-reaching nature of the change due to the new procedure:

> In the middle of the nineteenth century a boy 13 or 14 years old set fire to a stable. He was indicted by the grand jury, and because he could not give bail he was sent to jail until he was tried before a petit jury in a crowded court room. The State's attorney presented his evidence, consisting of proof that the boy committed the act with which he was charged and that he was old enough to know what he was doing. The boy's attorney offered evidence to the contrary. The judge ruled on questions of evidence. Hearsay evidence was not admissible. No one thought of offering testimony as to the boy's surroundings. He was convicted and sent to the penitentiary, in which he served his sentence in the company of the usual hardened convicts in a penal institution.
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> That boy's grandson to-day sets fire to a garage in a jurisdiction that has a modern juvenile court. Complaint is made. The boy is brought in and is sent to a juvenile detention home in which are no adults except the persons in charge. There he is examined physically and mentally. In the meantime a court probation officer investigates the boy and his environment. He finds that the boy's grandfather was sent to prison, that his family is poor, that they have moved from State to State, that he has had little schooling, and that he has been associating with vicious companions. A plan is made for the boy's care and training. His case is heard in a room informally arranged in which there are no spectators except those immediately concerned in the case and no lawyer except the judge. The judge hears the complaint and reads the reports of the physician, the psychiatrist, and the probation officer. The boy admits the act complained of. (If he had not admitted it the judge would have heard testimony and decided the question of fact.) The judge talks to the boy and to his parents and places him on probation. The cooperation of social agencies is enlisted and a better job is found for the boy's father. The probation officer con-

[1] See The English Struggle for Procedural Reform, by Edson R. Sunderland (Harvard Law Review, vol. 39, No. 6 (April, 1926), pp. 725–748).

> sults the school authorities and arranges for the boy to have school work that will hold his interest. He puts the boy in touch with recreational activities that will occupy his spare time in a wholesome way. The boy comes to the probation office regularly to report progress and to talk over his problems. The probation officer visits the boy and his family at frequent intervals and endeavors to bring the mother and father to a better understanding of their son and his needs. Finally, the boy is discharged from probation, or, if he continues in his old ways, he may be committed to a training school for boys.

If this boy in the hypothetical case of to-day had been referred to court because he did not have a suitable home or proper parental care similar procedure would have been followed. The fact of dependency would have been determined, his physical and mental condition would have been studied, and his environmental conditions would have been ascertained, and the case would have remained under the jurisdiction of the court, with officers of the court actively engaged in supervision, until discharge or commitment for foster-home or institutional care was deemed advisable.

What is the law doing in these cases? First, generally, as in cases of contract and property, it is determining an event. It determines whether or not the boy set fire to the garage, as it might determine whether a deed was actually signed or whether a seller failed to deliver an order. Second, it is determining a condition—the boy's health, mentality, and environment—again the factual question. Third, it is treating the event in the light of the condition, just as it may weigh considerations of public policy against considerations of individual interest in deciding whether a noise from a factory constitutes a public nuisance and should be enjoined. Fourth, it gives the case continued treatment, as it continues to supervise the administration of a trust in equity.

In such cases concerning minors the law formerly included only the first step. Taking the next three steps involved a method of approach new in this type of case but already known to the law in other cases. The great departure consists in the way the additional steps are taken—in the consideration of such factors as environment, of which the common law took no cognizance; in the action of court officials in investigating and reporting on questions of fact; and in the active participation of the court in endeavoring to improve environmental conditions.

THE LAW IN ACTION

It is apparent that the court in its new procedure is combining three distinct acts. It not only determines the facts, it seeks them out, and it may itself apply the treatment indicated. It unites the judicial process of the judge with the processes of the grand jury, of the posse, and of the district attorney, and it continues administrative supervision.

That the facts which the agencies of the court unearth include elements of psychology and psychiatry unknown a few decades ago to laymen as well as to lawyers is here immaterial. The content of judicial decisions always varies. Some centuries ago the courts were concerned mainly with questions of land tenure; to-day problems of corporation law bulk large. Nor is it unprecedented for a court to take into account considerations of economics and social polity.

The judicial process is generally influenced, consciously or subconsciously, by the thought of the era in which it is functioning,[2] as witness the legal history of labor problems. The most important change is that these courts combine three distinct functions: Investigation, decision, and treatment. This combination of functions is often said to result in an "administrative tribunal," but such phraseology is both loose and dangerous. People are too prone to give a complex situation a name; then because they can recognize its tag they believe that they understand its nature. Courts have always had their agencies by which the decisions of the judges were made effective, from the clerks who recorded them to the sheriffs who acted upon them. The law has always had, too, its agencies of investigation, from the time when the judges traveled from county to county to pass upon the breaches of the king's peace which the assizes had revealed. On the other hand, decision of course is not a purely judicial rôle; from early times there have been executives and legislators. The remarkable fact is that these new tribunals study the whole situation, formulate their policies, issue the orders for carrying them out, and decide when and how they are being violated and what shall be done about their violation. "Administrative" is too colorless a word.

The New York State Judiciary Constitutional Convention of 1921 was of the opinion that "extensive legislative, executive, and judicial powers are being vested and combined in administrative bodies in distinct and reckless disregard of the sound principle of the separation of governmental powers, which was deemed so essential to the true protection of individual rights by the wise founders of our republic in form of State governments.[3] As a matter of constitutional law there is no Federal requirement that the executive, legislative, and judicial functions of the States be kept separate.[4] The various State constitutions generally provide for a separation of functions; but there is no clear legal demarcation, and the question of the jurisdiction to be given to the courts is generally one of policy rather than one of law.[5]

It is true that the jurisdiction of these new courts is defined by the legislature, but their jurisdiction is sometimes as broad as the limits of family problems. It is true also that parties are given the right of appeal and the right to be represented by counsel, but the parties are represented by lawyers in relatively few cases, partly because of poverty, partly because the court itself not only acts as judge but also takes an active part as an investigator and as a friend of the parties. The relatively small proportion of appeals is attributable partly to lack of funds and partly to the absence of lawyers.

Under the new procedure precedent means little except as it represents experience. The question whether or not to take a child away from his parents and commit him to an institution is not governed by what seemed advisable in a previous reported decision. In fact, the decisions of these courts are not generally reported; the judge is

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[2] See The Nature of the Judicial Process, by Benjamin N. Cardozo (Yale University Press, 1921, reprinted in 1925).

[3] Report to New York Legislature of Judiciary Constitutional Convention of 1921, p. 11. Legislative Document (1922) No. 37.

[4] Prentis *v.* Atlantic Coast Line, 211 U. S. 210, 213. See also Constitutional Aspects of American Administrative Law, by Cuthbert W. Pound (American Bar Asssociation Journal, vol. 9, No. 7 (July, 1923), pp. 409–416).

[5] See Power of Congress Over Procedure in Criminal Contempts in Inferior Federal Courts; A Study in Separation of Powers, by Felix Frankfurter and James M. Landis (Harvard Law Review, vol. 37, No. 8 (June, 1924), pp. 1010–1113).

not restrained by the knowledge that his judgments will be read and criticized by fellow members of his profession, a knowledge generally regarded as one of the most salutary checks of the common law.

Likelihood of appeal and the existence of printed reports are vividly present to other "administrative" tribunals, such as public-service commissions and even industrial-accident commissions, where financial interests, large or small, are at stake. The judge of a family court, without these checks, has opportunities well-nigh oriental in scope. Nor is this tremendous power over the lives and happiness of thousands confined to the judge. It is shared by the officials of the courts, particularly the probation officers, who are intrusted with the preliminary investigations and the follow-up work. Indeed, in some family courts only a relatively small proportion of the cases come before the judge's bench.

The danger of this system is the danger of all magisterial justice. The common law as it emerged from feudal times is essentially a system of checks and balances and is fundamentally a practical institution. Its procedure in particular reflects a long history of struggle against abuses of freedom. Because it is a practical institution it is changing its procedure. The celerity and businesslike organization of the English High Court of Justice are far removed from the leisurely processes of Coke and Blackstone. The rush of modern civilization, the problems brought on by the industrial revolution, and the growth of huge cities have necessitated a new judicial technique. But that technique as it is being worked out in family courts is not unlike the manorial courts of feudalism itself.

The distinction between the new procedure and the old common-law ways can not be overemphasized. The old courts relied upon the learning of lawyers; the new courts depend more upon psychiatrists and social workers. The evidence before the old courts was brought by the parties; most of the evidence before the new courts is obtained by the courts themselves. The old courts relied upon precedents; the new courts have few to follow. The decisions of the old courts were reported, studied, and criticized by lawyers, and their rooms were filled with lawyers; the decisions of the new courts are seldom reported, and their hearings are attended by probation officers trained in social service. The judgments of the old courts were final, save for appeal; in the new courts appeals are infrequent, and the judgment of the court is often only the beginning of the treatment of the case. In the old courts the jury was a vital factor; in the new courts, in practice, the jury is discarded. The system of the old courts was based upon checks and balances; the actual power of the new courts is practically unlimited. Justice in the old courts was based on legal science; in the new courts it is based on social engineering.

In other words, whatever analogies may be drawn with old common-law cases and customs, the vivid fact emerges of departure from an attempt to obtain justice by precedent and abstract reason and of return to an attempt to reach justice in the individual case.

From one aspect the new freedom may be the old tyranny. "The powers of the court of Star Chamber were a bagatelle compared with those of American juvenile courts and courts of domestic relations. If

those courts chose to act arbitrarily and oppressively they could cause a revolution quite as easily as did the former."[6]

The new socialized procedure is gaining ground steadily and has affected not only the treatment of juvenile and domestic-relations cases but also general criminal procedure. Fundamentally and applied within its proper sphere the theory of the new procedure is sound because it is adapted to modern conditions. It can be successful in practice, however, only if it lives up to its theory. It must be supplied with the exceptionally able, trained man and woman power that its success demands. It must be regarded not as an end but as a means toward legal and social development. It must be treated frankly as an experiment requiring constant watching and study. Emotionalism must be shed, errors must be acknowledged when they are found, and facts must be dealt with. Finally undue haste to abolish the safeguards and the science of the common law must be avoided. It must be remembered that law is only a part of life, only one science among many to be used for social betterment; but it must be borne in mind, too, that law can not make over life.

[6] Pound, Roscoe: The Administration of Justice in the Modern City. Harvard Law Review, vol. 26, No. 4 (February, 1913), pp. 302–328.

FUNCTION OF THE LAW IN FAMILY PROBLEMS

THE LIMITS OF EFFECTIVE LEGAL ACTION

What is the proper field for the new procedure as applied to domestic relations? Obviously it can not be made to cover the whole substantive law. It is not adapted, for example, to deal with prenuptial property agreements. It can not compel the enforcement of connubial rights beyond ordering the payment of money or prohibiting certain acts. In short, the law has inherent limitations as applicable here as elsewhere.

Dean Pound, in discussing before the Pennsylvania Bar Association the question how far the law can hope to go, pointed out five limitations, the first one growing out of the difficulties involved in ascertainment of the facts to which legal rules are to be applied. As a matter of fact, nothing is more difficult than to get the truth in a family tangle. The suppression of vital elements by the parties, or ignorance of their existence, combined with the innate delicacy and manysidedness of the problems, makes it practically impossible in many cases for the court to uncover the real situation. He continues as follows:

> Another set of limitations grows out of the intangibleness of duties which morally are of great moment but legally defy enforcement. I have spoken already of futile attempts of equity at Rome and in England to make moral duties of gratitude or disinterestedness into duties enforceable by courts. In modern law not only duties of care for the health, morals, and education of children but even truancy and incorrigibility are coming under the supervision of juvenile courts or courts of domestic relations. * * *
>
> A third set of limitations grows out of the subtlety of modes of seriously infringing important interests which the law would be glad to secure effectively if it might. Thus grave infringements of individual interests in the domestic relations by talebearing or intrigue are often too intangible to be reached by legal machinery. * * *
>
> A fourth set of limitations grows out of the inapplicability of the legal machinery of rule and remedy to many phases of human conduct, to many important human relations, and to some serious wrongs. One example may be seen in the duty of husband and wife to live together and the claim of each to the society and affection of the other. * * *
>
> Finally, a fifth set of limitations grows out of the necessity of appealing to individuals to set the law in motion. All legal systems labor under this necessity. But it puts a special burden upon legal administration of justice in an Anglo-American democracy. For our whole traditional polity depends on individual initiative to secure legal redress and enforce legal rules. It is true the ultraindividualism of the common law in this connection has broken down. We no longer rely wholly upon individual prosecutors to bring criminals to justice. We no longer rely upon private actions for damages to hold public-service companies to their duties or to save us from adulterated food. Yet the possibilities of administrative enforcement of law are limited also, even if there were not grave objections to a general régime of administrative enforcement. For laws will not enforce themselves. Human beings must execute them, and there must be some motive setting the individual in motion to do this above and beyond the abstract content of the rule and its conformity to an ideal justice or an ideal of social interest.[1]

[1] Pound, Roscoe: The Limits of Effective Legal Action. Report of the Twenty-second Annual Meeting of the Pennsylvania Bar Association, 1916, pp. 233–238

The law, after all, beyond giving money compensation, is much more adapted to deal with negatives than with positives. It can keep a baseball player from working for a team other than the one with which he signed, but it can not compel him to play for that team. It can order a man not to live with a woman other than his wife, but it can not give the wife her husband's society. The most it can do generally by way of affirmative action is to order a thing done and punish the defendant for contempt if he refuses.

ENFORCEMENT OF THE LAW OF DOMESTIC RELATIONS

In view of its inherent limitations how far should the law endeavor to go in the solution of domestic difficulties? The answer is simple: The law should enforce to the best of its ability the fulfillment of the legal rights and obligations of the family. These rights and obligations are formulated by common law and statute, as has been outlined in a preceding section. If the substantive law itself goes too far, beyond the practical boundaries of effective legal action, the law itself—not its functioning—needs overhauling. The law, it must always be kept in mind, is only one of the social agencies. There are others, such as the church and social-welfare organizations, which may be much better equipped to deal with certain aspects of family problems. But the substantive law in general does not go too far. Here and there, of course, it needs revision. In some States it may include matters with which the law should not concern itself; in others the arsenal of legal remedies is incomplete. Uniform desertion and nonsupport laws are needed, and the varying doctrines of divorce are not all in accord with modern thought. But it can be said as a general proposition that for the most part the doctrines of the substantive law of domestic relations as it exists to-day are just and that it stays within the limitations of the law pointed out by legal thinkers and tested by the practical experience of centuries.

The problem to-day is not so much what the law of domestic relations should be as how the law should be enforced. In other words, the first concern of students of the subject should be not the limitations of legal doctrine but the limitations of its enforcement.

Enforcement of the law of domestic relations involves the two elements of judicial technique and court organization. The new technique has been discussed. The problem of court organization, like the problem of procedure, is not confined to domestic relations but runs throughout the judicial structure. The two problems, which are in some measure interrelated, must be kept distinct so far as possible in aid of clear thinking on these questions of the law and the family.

The effective limits of the enforcement of the law are after all pragmatic. If the law can be enforced more adequately, if its final aim of justice can be obtained more completely through the new socialized procedure and socialized courts, those means must be found—provided always that in seeking to do justice no injustice is committed. The criticism of unwarranted meddling with the most intimate personal relations of humanity is not new and is not always unfounded. A meddlesome and ill-equipped family court may do far more harm than the old common-law tribunal, whose mischief at least was limited.

INTERRELATION OF JUVENILE AND FAMILY-COURT CASES

Reference has already been made to "the intimate interrelation of all justiciable questions involving family life." (See p. 15.) A number of instances of conflict of jurisdiction between juvenile courts and courts awarding custody of children in divorce cases have come before courts of last resort,[1] and conflict also occurs between divorce courts granting alimony and courts having jurisdiction over criminal nonsupport actions. Machinery established in some jurisdictions for the collection of support orders in the criminal courts is not always available for the collection of money ordered as alimony for the support of children of divorced parents. Careful methods of investigation that have been developed in the best juvenile courts for the protection of dependent children whose custody is to be transferred have not been available for the protection of children who are to be given permanently in adoption.

To eliminate piecemeal justice in the field of domestic relations has been one of the aims of the family-court movement. Evidently there is a real problem in the overlapping of jurisdiction in cases involving the law of domestic relations, in that a number of courts may be passing upon different phases of the same family problem. Relatively little information is available, however, concerning the actual extent to which the same families are dealt with by more than one court or in more than one type of juvenile or domestic-relations case.

EARLY STUDIES OF OVERLAPPING

A study of the extent of duplication between the children's court and the family court of New York City, which has jurisdiction over cases of nonsupport, desertion, and abandonment, showed relatively little overlapping in the two courts in a period of three years and four months (January 1, 1919, to May 1, 1922). Only 2.4 per cent of 7,563 cases coming before the children's court during this period had ever been in the family court, and only 1.1 per cent had been in both courts within a period of six months at any time in their history. It must be borne in mind, however, that both the children's court and the family court had limited jurisdiction at the time of this study.[2]

A Minneapolis study covering a small number of cases known to social agencies indicates considerable overlapping. It was found that 33 of 89 families dealt with in 1921 and 1922 in divorce cases (over which the district court has jurisdiction) were known also to the juvenile branch of that court; that 54 of the men had been before the municipal court on charges of nonsupport, assault and battery, or drunkenness; and that 36 of them had been dealt with previously by the district court on desertion charges. Nineteen of the 89 families had appeared in all three courts (district, juvenile, and municipal), 37 others in two courts; and many of them had appeared repeatedly. The proportion of families with records in more than one court probably was higher than if an unselected group of families, including both

[1] For example: In re Hosford (107 Kans. 115; 190 Pac. 765); Spade v. State (44 Ind. App. 529; 89 NE. 604); Brana v. Brana (139 La. 306; 71 So. 519); State v. Trimble (306 Mo. 657; 269 SW. 617).

[2] See the report of a study made by the committee on criminal courts of the Charity Organization Society of the City of New York (Annual Report, Forty-first Year, Oct. 1, 1922, to Sept. 30, 1923, pp. 32-33, Bulletin No. 470, Apr. 30, 1924).

those known to social agencies and those not known, had been studied.[3]

Much overlapping appeared in the statistics presented by the Philadelphia municipal court for 1922, as 16 per cent of 3,771 new cases received in the juvenile division of this court were known to have records in other divisions of the court, 12.1 per cent in the domestic-relation division.[4]

STUDY OF FAMILIES DEALT WITH IN JUVENILE AND DOMESTIC-RELATIONS CASES IN HAMILTON COUNTY, OHIO, AND PHILADELPHIA, PA.

In order to obtain information concerning the volume of cases involving juvenile and domestic-relations problems, the extent to which the same family was dealt with in cases of different types and by two or more organizations, and something of the characteristics of the families and the extent to which they had been dealt with by social agencies, studies were made by the Children's Bureau in Hamilton County, Ohio, and Philadelphia, Pa.

Hamilton County, in which Cincinnati is situated, was the pioneer community in the development of a family court with broad juvenile and domestic-relations jurisdiction (the domestic-relations division of the court of common pleas). In this city juvenile and divorce cases and certain other types of domestic-relations cases are dealt with by this family court, which has a central record system. Domestic-relations cases (chiefly desertion or nonsupport) not dealt with by the family court are given through the Ohio Humane Society the type of service usually rendered by a probation department. Statistical data for the year 1923 were obtained from the records of the family court, the humane society, and the probate court—which has jurisdiction over adoption, guardianship, and commitment of mentally defective persons. In Philadelphia practically all the juvenile and domestic-relations work except that relating to divorce cases is centered in the municipal court, which has juvenile, domestic-relations, misdemeanants, and criminal divisions, and a central record system and statistical department. The Philadelphia study was a joint undertaking of the Children's Bureau and the court's statistical department, which gave valuable assistance. In addition to municipal-court records, the records of the court of common pleas were consulted and information was obtained concerning 284 divorce cases involving children under 18 years of age. Although the Hamilton County study covered the entire year 1923, the Philadelphia study, because of the large number of cases passing through the court, covered only the month of October, 1923.[5]

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[3] The 89 families were chosen from a much larger group known to social agencies, and detailed information was obtained as to their social histories and court records. The families known to the social agencies represented 30 per cent of an unselected group of individuals applying for divorces cleared through the social-service exchange on the basis of the surnames and first names of the men and women as given in the newspapers. See Where Courts Interlock, by Mildred D. Mudgett (Family, vol. 4, No. 3 (May, 1923), pp. 51–55). The social-service exchange is a clearing bureau maintained for the use of social case work agencies to prevent duplication in case work and to assist in investigations. When a case is registered with the exchange the names of agencies previously registered are given to the registering agency.

[4] Ninth Annual Report of the Municipal Court of Philadelphia, 1922, p. 449.

[5] For detailed presentation of the findings of this study see Appendix B, p. 71, and for the jurisdiction of the courts see Appendix A, p. 67.

VOLUME OF CASES

The studies indicate a considerable volume of domestic-relations work in Cincinnati (Hamilton County) and Philadelphia. More than 5,000 families (5,286), or approximately 4 per cent of all the families in Hamilton County, were dealt with in the year 1923 by the family court, the humane society (with or without court action), and the probate court in juvenile and domestic-relations cases (including divorce cases in which children were involved). In a single month (October, 1923) the Philadelphia municipal court dealt with 6,728 families, or approximately 2 per cent of the total families in Philadelphia, in juvenile and domestic-relations cases exclusive of divorce, adoption, and certain other types of cases included in the Hamilton County study.

The family court in Hamilton County, which has jurisdiction over all the cases included in the study except cases of adoption, guardianship, and feeble-mindedness, actually dealt with only 68 per cent of all the families in that community included in the study. Many dependency and neglect cases and the great majority of the desertion or nonsupport and illegitimacy cases were dealt with by agencies other than the family court.

INTERRELATION OF CASES

Many families presented two or more different types of family problems, some of the kind usually coming within the jurisdiction of a juvenile court and others involving such issues as divorce, desertion or nonsupport, illegitimacy, or adoption. Such overlapping is significant in relation to efforts to consolidate court work in juvenile and domestic-relations cases. One-eighth of the Hamilton County families (13 per cent) were dealt with in more than one type of case during the year. Six per cent of the Philadelphia municipal-court cases were dealt with in more than one type of case in a single month (October). Fourteen per cent of the juvenile cases in Philadelphia, the same percentage of desertion or nonsupport cases, and 20 per cent of the illegitimacy cases had been dealt with in cases of other types during the year ended October 31, 1923.

Forty-one per cent of the Hamilton County families dealt with in dependency or neglect cases in 1923 were dealt with also in that year in cases of other types, usually domestic relations. Twenty-six per cent of the families dealt with in divorce cases were known in cases of other types, chiefly desertion or nonsupport. The greatest amount of overlapping was found to exist between dependency or neglect and desertion or nonsupport, divorce and desertion or nonsupport, and offenses against children and delinquency. Thirteen per cent of 284 divorce cases dealt with by the Philadelphia court of common pleas were known to the municipal court during the year in which divorce petitions were filed, and 47 per cent had been known to the municipal court before or during the year, practically all of them to the domestic-relations division of the court.

SOCIAL AGENCIES DEALING WITH THE FAMILIES

Many of the families dealt with by the courts in juvenile and domestic-relations cases (and, in Hamilton County, by the humane society) had required various types of community social service. In

Hamilton County 53 per cent of the families dealt with were reported by the social-service exchange as known to Hamilton County agencies other than the courts or the humane society, or as known to the family court or the humane society in cases of other types than those included in the study. Thirty-three per cent were known to more than one agency. Among families dealt with in desertion or nonsupport cases, 53 per cent—and among those dealt with in divorce cases, 36 per cent—had social-agency records. More than one-third of all the families included in the study had been known to family-welfare agencies.

The Philadelphia percentages approximated very closely those for Hamilton County, 58 per cent of the families dealt with by the municipal court in juvenile and domestic-relations cases having been known to social agencies, 36 per cent to more than one agency, and 24 per cent (a considerably smaller percentage than in Hamilton County) to family-welfare agencies. Among families dealt with by the Philadelphia court in more than one type of case, 89 per cent had social-agency records.

It is clear that use of the social-service exchange and of the information available in the case records of the agencies is exceedingly important in the work of family courts.

CHARACTERISTICS OF THE FAMILIES

Information concerning race of mother and age of parents was obtained for Hamilton County but not for Philadelphia. The percentage of colored mothers in Hamilton County was almost three times as high as the percentage of colored in the whole population. Many of the parents were young or in early middle life. In 36 per cent of the families the mother was between 21 and 30 and the father between 21 and 40 years of age. Both parents were 21 and under 30 years of age in 17 per cent of the families dealt with in dependency and neglect cases, 21 per cent of those dealt with in divorce cases, and 29 per cent of those dealt with in desertion or nonsupport cases. Less than one-fourth of the mothers (23 per cent) had reached the age of 40.

The number of living children in the Hamilton County families dealt with in the course of a year in juvenile and domestic-relations cases was 10,681, an average of 2.4 per family in the 4,477 families with living children (excluding unborn children). In Philadelphia 17,143 children, an average of 2.8 per family, were reported in the 6,017 families with living children dealt with in the course of one month by the municipal court in juvenile and domestic-relations cases.

The Hamilton County families studied which had been dealt with in divorce cases included only those that had minor children; of these, 54 per cent had children under 7 years of age and 21 per cent had children under 3 years of age. Seventy-three per cent of the families dealt with in desertion or nonsupport cases had children under 7, and 47 per cent had children under 3 years of age. These cases are thus seen to involve, very frequently, provision for the care and protection of young children, a task which can be performed only when the court has facilities for social investigation, planning, and supervision. Of the whole group of Hamilton County families for which age of children was reported, 53 per cent had children under the age of 7 years and

28 per cent had children under the age of 3 years. The Philadelphia percentages were very similar—52 per cent with children under 7 and 27 per cent with children under 3. The types of cases included in the two communities were somewhat different.

As was to be expected, many broken homes and complicated family situations were included in the groups for which information was obtained. In only 23 per cent of the Hamilton County families were all the children the children of both husband and wife and all living with both parents. Corresponding information was not available for Philadelphia. In 12 per cent of the Hamilton County families and 13 per cent of the Philadelphia families none of the children was with either parent.

PRESENT JUDICIAL ORGANIZATION FOR DEALING WITH JUVENILE AND FAMILY CASES

COURT SYSTEMS HAVING JURISDICTION OVER CASES INCLUDED IN THE STUDY

At the present time in most States jurisdiction in juvenile and domestic-relations cases is divided among (1) specialized juvenile, family, or domestic-relations courts; (2) criminal courts; and (3) courts of probate and chancery jurisdiction. Attempts to consolidate jurisdiction therefore must take into consideration these three classes of courts, constitutional limitations relating to the establishment of courts, and the vested jurisdiction of existing courts.

The number of courts having jurisdiction over family cases of course depends in the first instance upon the general judicial organization of the State. This country seems to take a peculiar zest in the formation of new courts. Many States have courts which do not coordinate with the other judicial units but whose jurisdiction overlaps theirs in almost every particular; and the cure for this situation is often taken to be creation of another court. This condition is by no means nation-wide. In some jurisdictions there is real evidence that the business aptitude for organization for which Americans are supposed to be famous has permeated into the judicial system. In others there is a marked lack of coordination.

Original jurisdiction in criminal cases is usually divided between courts that deal with cases on indictment or information (as the court of general criminal jurisdiction) and courts of summary jurisdiction (justices of the peace, municipal courts, police courts) that have power to dispose of minor cases immediately and hold only the more serious cases for the grand jury or the court of general criminal jurisdiction. Sometimes the same domestic situation may be dealt with as a misdemeanor and disposed of in a municipal or police court or may be dealt with as a felony by the grand jury and higher criminal court. This is particularly true of nonsupport and desertion cases (as in Arkansas, California, and Indiana). In fact, in some jurisdictions (for example, Indianapolis and St. Louis) three or four types of courts may deal with nonsupport: City courts, courts of inferior criminal jurisdiction, courts of general criminal jurisdiction, and (as in Indianapolis) the juvenile court under a law relating to contributing to dependency.

In considering chancery and probate jurisdiction it is found that in many States cases of adoption and guardianship are dealt with in the probate or county court, and cases of divorce and annulment of marriage are dealt with in the superior, district, or circuit court or in some other court of general civil and criminal jurisdiction. In some States, however, divorce and annulment cases come under the jurisdiction of a chancery court without criminal jurisdiction, as in Arkansas and Mississippi. On the other hand, adoption and guardianship jurisdiction is sometimes vested in a court of general criminal and civil jurisdiction, as in California, where the superior court has

exclusive probate and juvenile jurisdiction, and in Iowa, where the district court has exclusive probate jurisdiction. In the latter State the probate division of the district court handles guardianship matters, and all courts of record (including both the district court and the division of this court designated the juvenile court) have jurisdiction over adoption.

A summary of the number of different court systems in each State that have jurisdiction over the various cases included in this study is of interest in this connection.[1] Specific offenses against children, which are classed as misdemeanors or felonies and are handled usually by any criminal court having jurisdiction over the grade of offense indicated, are excluded; and juvenile and domestic-relations courts that are divisions of larger courts have not been counted as separate courts. Possibly some local courts that may have jurisdiction under special laws or under ordinances not published in the codes have not been counted.[2] In only 3 States is jurisdiction over the cases specified vested in only two courts. In the District of Columbia and 8 States it is divided among three courts; in 17 States four or five courts may have jurisdiction; in 15 States, six or seven courts; and in 5 States, eight or more courts.[3]

JURISDICTION IN DELINQUENCY AND DEPENDENCY CASES

One of the first points to be considered with reference to the jurisdiction that should be vested in the juvenile or family court is whether juvenile jurisdiction includes all young people who should be brought under the protection of the special procedure that has been developed. This involves two questions: (1) The age jurisdiction of the juvenile court, and (2) exceptions or modifications in juvenile-court jurisdiction with reference to serious offenses committed by children.

The tendency clearly is to raise age jurisdiction to 18 years at least. About half the States extend the delinquency jurisdiction of the juvenile court to both boys and girls, or to girls only, under 18 years of age; and in a few States jurisdiction extends to a higher age. Considerable work, however, remains to be accomplished if the standard adopted in 1925 by the National Probation Association in its standard juvenile court law be regarded as a desirable goal.[4] To reach this it would be necessary to raise age limits to 18 years throughout the State in some or all classes of cases (boys' or girls', dependency and neglect, or delinquency) in 29 States[5] and the District of Columbia, and to

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[1] See p. 15 of this report and also Analysis and Tabular Summary of State Laws Relating to Jurisdiction in Children's Cases and Cases of Domestic Relations, p. 1.

[2] It has been impossible to ascertain in every instance whether city and municipal courts should be considered one or two types of court, and the same is true of justice of the peace and police courts. In the absence of information to the contrary they have been counted as two courts. Of course not all the courts authorized by law are operating in all jurisdictions, and sometimes several courts are presided over by the same judge and served by the same staff. For example, in New Jersey the judge of the court of common pleas is also judge of the courts of quarter sessions and special sessions and of the juvenile court (except in counties of the first class), and he may be judge of the orphans' court, all these courts having jurisdiction over cases included in the study.

[3] Two courts have jurisdiction in Arizona, Kentucky, Louisiana; 3 in California, Nebraska, Nevada, North Dakota, Oregon, Utah, Washington, Wyoming; 4 in Colorado, Idaho, Minnesota, Mississippi, Montana, New Hampshire, Rhode Island, South Dakota, Texas, Vermont; 5 in Alabama, Georgia, Kansas, Massachusetts, New Mexico, Oklahoma, Wisconsin; 6 in Connecticut. Florida, Illinois, Indiana, Iowa, North Carolina, Pennsylvania, West Virginia; 7 in Arkansas, Delaware, Maine, Maryland, Michigan, Ohio, Virginia; 8 in Missouri, South Carolina, Tennessee; 9 in New York; and 13 in New Jersey.

[4] A Standard Juvenile-Court Law, prepared by the committee on standard juvenile-court laws (revised edition) National Probation Association (Inc.), New York, 1933.

[5] Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Missouri, Montana, New Hampshire, New Jersey, New York, North Carolina, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, West Virginia, and Wisconsin.

eliminate exceptions to juvenile-court jurisdiction or modifications of it in cases of serious offenses in 27 States[6] and the District of Columbia. These changes would prevent overlapping of jurisdiction in cases of children under the age of 18 years.

JURISDICTION IN OTHER JUVENILE AND FAMILY CASES

In 33 States, in parts of 5 others, and in the District of Columbia the juvenile court or the court of which it is a part has at least concurrent jurisdiction over cases of contributing to delinquency or dependency; and in 29 States, parts of 10 others, and the District of Columbia such courts have jurisdiction over some or all types of offenses against children. In 28 States, the District of Columbia, and parts of 15 States such courts have jurisdiction in cases of desertion or nonsupport. In 3 States, parts of 3 others, and the District of Columbia the juvenile court or family court has jurisdiction over cases of establishment of paternity, and in more than a third of the States such jurisdiction is vested in courts having juvenile divisions. Jurisdiction over divorce is vested in juvenile or family courts in 1 State and parts of 4 others; and courts having juvenile divisions are given such jurisdiction in 8 States and parts of 13 others.

In few States is jurisdiction over adoption or guardianship cases, or the commitment of mentally defective or insane children, vested in the juvenile court; but in a number of States the court of which the juvenile court is a part has such jurisdiction. In more than half the States possibilities exist for coordination of work in these cases through court assignment and utilization of the social-service machinery of the juvenile division.

POSSIBILITIES OF CONSOLIDATING JURISDICTION

As is indicated by the preceding analysis, certain types of judicial organization greatly simplify the problem of centralizing jurisdiction. For example, in certain of the western States, such as Nebraska, the district courts have very broad general jurisdiction, including cases under the juvenile-court law, nonsupport and desertion cases, and divorce cases. There it was possible without special legislation to reassign cases and to create a special docket, establishing divisions of domestic relations of broad scope. In Hamilton County and other Ohio counties a similar situation existed, the court of common pleas having jurisdiction over juvenile cases, divorce cases, cases of failure to provide for minor children, and illegitimacy cases. Accordingly the Ohio laws creating family courts are very brief and involve no difficult legal problems. Over the two last-named classes of cases, however, municipal courts in Ohio also have jurisdiction, which is frequently exercised in at least two of the Ohio cities having family courts.

In contrast to the relatively simple situation in Nebraska, which makes consolidation easy, is the very complicated system in New York City, where jurisdiction is divided among the children's court;

[6] Arkansas, Colorado, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Louisiana, Maine, Massachusetts, Mississippi, Missouri, Montana, New Hampshire, New Mexico, New York, North Carolina, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Utah, Vermont, and Wyoming. The standard law would permit the juvenile court to waive jurisdiction in the case of a child 16 years of age or over charged with an offense that would amount to a felony in the case of an adult.

the magistrates' courts, which deal with deserting and nonsupporting husbands as "disorderly"; the court of special sessions, with jurisdiction in illegitimacy cases; the surrogate's court, with jurisdiction in adoption cases; and the supreme court, with divorce jurisdiction. The children's court has been given certain enlarged powers with reference to families of children before the court as delinquent, neglected, or dependent, and in three boroughs "family divisions" of the magistrates' courts have been developed to deal with desertion and nonsupport cases.[7] In a number of States possibilities exist for further consolidation in the juvenile or family division of jurisdiction over the classes of cases included in this study or for utilization of the social-service machinery of that division without legislative action.

[7] By a law of 1933 the family courts have been merged with the children's court, and the domestic-relations jurisdiction has been considerably broadened (N. Y., act of Apr. 26, 1933, ch. 482).

FAMILY COURTS AND COURTS OF DOMESTIC RELATIONS IN ACTION

The efficacy of a court can not be judged by the number of cases that come before it nor by the amount of money it handles. Most courts can be judged according to their published opinions, but family courts rarely make law. They must be tested by results, and it is results that are hardest to evaluate. However, the court's jurisdiction, the number and quality of personnel, the equipment, actual observation of hearings, and information concerning methods or organization and administration are all indicative of the extent to which the court succeeds in correcting the individual family and community maladjustments with which it deals.

CONSOLIDATION OF JURISDICTION

It has been pointed out that one of the aims of the family-court movement has been elimination of the overlapping jurisdiction of various tribunals. How far this aim is realized depends in the first place upon the content of the legislation under which the courts operate and in the second place upon the extent to which the new courts actually exercise jurisdiction. The first factor is affected by the constitutional limitations regarding the establishment of new courts and the conferring of exclusive jurisdiction upon these courts and the legal status of the courts upon which jurisdiction is conferred (as whether their jurisdiction is limited and whether provision is made for jury trials). The second factor is largely dependent upon the extent to which public opinion, as expressed through prosecuting authorities, bench and bar, and cooperating social agencies, supports the new court.

JURISDICTION CONFERRED BY LAW OR RULE OF COURT

The four family courts of juvenile and broad adult jurisdiction that were studied in Hamilton, Mahoning, Montgomery, and Summit Counties, Ohio, have jurisdiction over all types of cases included in the study except cases of adoption and guardianship. The family court of Multnomah County, Oreg., also has very broad jurisdiction.

The family courts of juvenile and limited adult jurisdiction that were studied furnish an interesting contrast. Desertion and non-support cases, but not divorce cases, are included in the jurisdiction of the New Jersey and Virginia courts and in that of Jefferson County, Ala., whereas in the court of St. Louis, Mo., the reverse is true. Offenses against children are dealt with by the Virginia courts and that of Jefferson County but not by those of New Jersey and St. Louis. The jurisdiction of the New Jersey, Jefferson County, and St. Louis courts covers one or more of the types of cases that usually are dealt with by a probate court. The Virginia courts have power to commit mentally defective children who are within their jurisdiction for other reasons.

The jurisdiction of the juvenile courts included in the study is in some instances so broad as to make the line between this group and the preceding group little more than an arbitrary division.[1] All of them have jurisdiction over contributing to delinquency or over other offenses against children, though in the District of Columbia and New York City such jurisdiction is quite limited. All have jurisdiction over desertion or nonsupport, though in Indianapolis, Ind., the procedure is in reality a contributing-to-neglect procedure; but in New York City such jurisdiction is limited to cases in which the child is already before the court on a charge related to juvenile jurisdiction. The New York and District of Columbia courts have jurisdiction over proceedings for the establishment of paternity. None has divorce jurisdiction. Adoption jurisdiction is vested in the New York and Denver courts, though in New York City it is limited to cases in which the child is already before the court. Power to commit mentally defective children and at least certain powers with reference to guardianship are also vested, with certain exceptions, in the courts of this group.

The jurisdiction of the five domestic-relations courts without juvenile jurisdiction that were studied (see p. 16) is limited for the most part to cases of desertion and nonsupport, though two courts have jurisdiction over cases of establishment of paternity and three over at least certain types of cases of offenses against children. None of these courts has divorce jurisdiction nor jurisdiction over adoption, guardianship, or the commitment of mentally defective children.

The municipal and district courts with organization for juvenile and domestic-relations work are a group concerning which information is difficult to obtain, because they may be established by rule of court without special legislation. Jurisdiction has been given by law over divorce to one of the four courts studied, over adoption to one, over commitment of mentally defective children to two. In addition, nearly all types of cases included in the study may be assigned to these courts. Cases of offenses against children, however, and cases of establishment of paternity were not usually assigned to the juvenile and domestic-relations divisions.

JURISDICTION EXERCISED IN PRACTICE

Much of the adult jurisdiction of the family court or court of domestic relations is concurrent with that of other courts. In each of the four Ohio counties whose family courts of juvenile and broad adult jurisdiction were studied the chief city has a municipal court with limited criminal and civil jurisdiction, including concurrent jurisdiction over nonsupport, illegitimacy, and offenses against children; and each county has a probate court with jurisdiction over adoption, guardianship, and commitment of mentally defective children. In each community also is a humane society, a very old organization that has been granted special privileges by State law. This society had been accustomed to prosecute cases of neglect, abuse, or nonsupport and desertion in the municipal court; and in Hamilton and Mahoning Counties it continued to prosecute them

[1] For the location of the juvenile courts studied see footnote 17, p. 6, and for the extent to which they are representative of a larger group see p. 16. Legal authority was given in 1923 for designating the Denver court "for convenience" the family court.

in the municipal court after divisions of domestic relations had been established in the courts of common pleas. In 1923 in Hamilton County only 14 per cent of the families dealt with in cases of desertion or nonsupport and not in cases of other types and 10 per cent of those dealt with in illegitimacy cases only were handled by the family court. The remainder were dealt with by the humane society, informally or through the municipal court. (See Appendix B, p. 73.) The Mahoning County division of domestic relations did not exercise jurisdiction over desertion or nonsupport except in cases of failure to pay alimony and cases in which the children were cared for apart from both parents, and illegitimacy jurisdiction was not exercised. All or most of the nonsupport cases in Montgomery and Summit Counties were reported to be heard in the family courts, but only the Montgomery County court heard paternity cases. Thus in these four Ohio communities consolidation of jurisdiction had not approached in practice the extent to which it is authorized by law. The court of Multnomah County, Oreg., was not exercising to any extent its jurisdiction over nonsupport or contributing to delinquency.

In the family courts of juvenile and limited adult jurisdiction that were studied the situation was found to be as follows: The jurisdiction of the Virginia courts was exclusive in the cases designated by law as coming under their control. The volume of business had not been so great in any community as to make it necessary to separate the court into two divisions. The jurisdiction of the court of Jefferson County, Ala., was similar to that of the Virginia courts and was exclusive over juvenile cases and desertion and nonsupport cases, and also over cases of contributing to delinquency or dependency. This court had had two separate divisions, presided over by different judges, holding sessions in different places, staffed by different officers, and having relatively little provision for coordination of work. Little social-service work was done in adult cases. In 1927 the situation was improved by legislation establishing in place of the existing court a juvenile and domestic-relations court with a single judge.[2] The court of St. Louis, Mo., likewise was divided into distinct juvenile and divorce divisions with little coordination of activities except that the judge presiding over one of the divorce divisions was assigned also to the juvenile division. In the two New Jersey counties many domestic-relations cases within the jurisdiction of the county family courts were dealt with by other courts. Practically all the probation work in these two communities was done through county probation bureaus serving all the courts in the county. Each of these bureaus had a domestic-relations division, so that the social-service work in these cases was coordinated even though jurisdiction was divided.

Among the juvenile courts of broad jurisdiction that were studied several had succeeded in consolidating jurisdiction to a considerable degree, if not to the full extent authorized by law. The District of Columbia juvenile court was exercising jurisdiction in the majority of cases of desertion or nonsupport, and it had exclusive jurisdiction in illegitimacy cases. It was not exercising the very limited jurisdiction that it possessed over cases of offenses against children, and its jurisdiction in cases of serious offenses committed by children was limited to preliminary examinations.

[2] Ala., act of Aug. 2, 1927, No. 225, Acts of 1927, pp. 238–250.

The judge of the Denver juvenile court interpreted the legislation under which it operated to mean that it had exclusive jurisdiction in the first instance as to the custody and disposition of all children under the age of 21 years in both delinquency and criminal cases; but it might direct that children under 21 not included in the definition of delinquency who were brought to court on criminal charges should be tried either in the criminal court or under criminal procedure in the juvenile court.[3] The juvenile court had concurrent jurisdiction in criminal cases against adults if the offense charged was against the person or concerning the morals or protection of a person under the age of 21 years. The Colorado laws relating to contributing to delinquency and dependency were very broad, and concurrent jurisdiction in desertion and nonsupport cases was vested in the juvenile court. In 1923 an arrangement was made with the district attorney whereby the juvenile court was given authority to investigate all nonsupport cases in which fathers failed to pay for the support of their children. If court action was justified, charges of contributing to dependency instead of nonsupport charges were filed in the juvenile court. It was stated in 1924 that illegitimacy cases were dealt with by the juvenile court under charges of contributing to dependency, that divorce cases in which children were involved were often referred to the juvenile court for investigation, and that cases of rape and of other offenses against children, jurisdiction over which was concurrent, were dealt with by the juvenile court. Much unofficial court work was done in cases involving questions of divorce, insufficient support, nonsupport, and family trouble.

In New York City, prior to the 1933 law effective October 1, jurisdiction in nonsupport cases was divided between the juvenile and domestic-relations courts. In Indianapolis, Ind., such jurisdiction was divided between the juvenile and municipal courts. In Indianapolis nonsupport cases were dealt with in the juvenile court under a contributing-to-neglect law and in the municipal court under a nonsupport law. In New York City the jurisdiction of the children's court in adult cases was limited to cases in which the child was before the court as delinquent or neglected. In exercising even this jurisdiction the court had been proceeding very slowly, partly because questions had been raised as to the validity of certain parts of the act. It exercised its nonsupport jurisdiction first by undertaking the collection of orders for the support of children placed in institutions or under the care of agencies; after this work had been well developed it began to collect support for neglected and delinquent children in their own homes.

The state-wide children's court act of New York State attempted to give to the children's court jurisdiction in all juvenile and family cases involving the welfare of children under the age of 16 years, except cases of divorce and alimony and adult cases involving offenses of the grade of felony, the jurisdiction to be exclusive except over truancy, adoption, guardianship, custody, contributing to delinquency, and other offenses against children. But decisions of the New York State supreme court, appellate division, weakened this jurisdiction, as has been stated (see p. 16), and limited the jurisdiction of the children's courts throughout the State substantially to that conferred upon the New York City court. Information

[3] The judge elected in 1927 has interpreted the delinquency jurisdiction of the court somewhat less broadly.

obtained in the course of this study indicated that the courts were proceeding slowly in exercising adult jurisdiction.

The five domestic-relations courts without juvenile jurisdiction that were studied had little opportunity to consolidate jurisdiction in various types of cases. The jurisdiction actually exercised by these courts has already been described. (See p. 35.)

The four municipal and district courts with juvenile and domestic-relations divisions that were studied had succeeded in centralizing the treatment of a variety of juvenile and family cases. In Philadelphia and in Springfield the juvenile and domestic-relations divisions were separate, though in Springfield the probation office was not divided into distinct departments but served all parts of the court. In Polk County, Iowa, and in Douglas County, Nebr., a single division had dealt with juvenile and domestic-relations cases. Later the work of these courts was reported to be departmentalized to some extent.

EXTENSION OF ACCEPTED STANDARDS OF JUVENILE-COURT ORGANIZATION AND PROCEDURE

Inasmuch as one of the two main objects of family-court organization was to extend to family cases the point of view and methods developed in the juvenile court it is pertinent to inquire into the extent to which the organization and methods of the new courts conform to generally accepted standards of juvenile-court procedure. It must be borne in mind that with perhaps a few notable exceptions these juvenile-court standards have not yet been put fully into practice in juvenile courts themselves; also that almost no attempt has been made to modify the rules of criminal procedure as applied to cases involving nonsupport and desertion (aside from those dealt with by juvenile courts under laws on contributing to dependency) or offenses against children.[4]

The principal juvenile-court standards applicable to family courts or courts of domestic relations [5] and the extent to which courts of various types included in the study approached the respective standards may be summarized as follows:

THE JUDGE

1. *The judge should be chosen because of his special qualifications for the work. The term of office should be sufficiently long to make specialization possible, preferably not less than six years. The judge should be able to devote such time to the work of the court as is necessary to hear each case carefully and thoroughly and to give general direction to the work of the court.*

With few exceptions the judges, probation officers, and staffs of juvenile courts and family courts or courts of domestic relations are not adequately paid. The wonder is, not that the judges and their assistants are not better but that so many capable officials are at work.

The position of judge of a family court requires qualities of the highest order: Broadmindedness, executive ability, tact, knowledge of the law, knowledge of the principles governing social work, and

[4] Chancery procedure in contributing to delinquency and dependency cases has been developed in Denver, Colo., and equity jurisdiction, along with criminal jurisdiction, is being developed in nonsupport cases in New York State.

[5] Adapted from Juvenile-Court Standards, pp. 2–10.

knowledge of people. To these must often be added ability to convince appropriating authorities and the general public that sufficient funds must be made available. These specifications are rarely filled.

The terms of consecutive service of the judges of courts other than juvenile courts included in the study ranged from the 6-year terms in Ohio, in Norfolk and Richmond, Va., and in Jefferson County, Ala., to assignments of three weeks in Boston. With the exception of the Philadelphia municipal court, which had short assignments in the domestic-relations division, and of the St. Louis court, which had 2-year assignments, the terms of service in all the courts having both juvenile and domestic-relations jurisdiction were four to six years. The juvenile courts with broad jurisdiction included in the study also had long terms—4, 6, or 10 years. Only one of the five domestic-relations courts without juvenile jurisdiction—that in Newark, N. J.—had a long term of service (four years) for the judge; in the others the judge as a rule served for periods of a few weeks or a few months. In New York City, however, some of the judges have served in the family court for much longer periods.

In a number of the courts the judges did not have sufficient time to "hear each case carefully and thoroughly and to give general direction to the work of the court." The volume of divorce business was very heavy in the Ohio courts, and in three of the four courts studied this occupied the major portion of the judge's time. These Ohio courts, however, gave much more time to the consideration of individual divorce cases than some of the other courts having divorce jurisdiction included in the study; for example, one that heard 60 to 70 divorce cases in a single day. The judges of some of the courts gave a great deal of time, both in formal hearings and otherwise, to considering the problems of individual cases.

THE PROBATION STAFF

2. *Not more than 50 cases should be under the supervision of one probation officer at any one time. Probation officers should be chosen from an eligible list secured by competitive examination. The minimum qualifications of probation officers should include a good education, preferably graduation from college or its equivalent or from a school of social work; at least one year in case work under supervision; good personality and character; tact, resourcefulness, and sympathy. The compensation of probation officers should be such that the best types of trained service can be secured. The salaries should be comparable with those paid to workers in other fields of social service. Increases should be based on records of service and efficiency.*

It is very difficult to measure the volume of preliminary work, such as interviewing and investigating, that each probation officer does, but the number of probationers under the supervision of each officer can be ascertained and a comparison made. In only five or six of the courts studied did the case loads even approximate the standard of 50 cases per officer, and two of these courts were serving rural counties. For instance, in one court having jurisdiction over juvenile and nonsupport cases the two juvenile officers had 74 and 130 cases, respectively, and the adult officers had 160 to 198 cases; in addition they made investigations and served as bailiffs and court

attendants. In another court with similar jurisdiction no case supervision of adult probationers and very little of juveniles was attempted; some of the juvenile officers did not even know for how many probationers they were responsible. In one juvenile court with broad jurisdiction the juvenile-delinquent case load was in conformity with the standards (boys 51, girls 33); but the officer supervising neglected and dependent children was responsible for 159 families, and the adult probation officers were responsible for 96 to 132. Other courts had as many as 200, 250, and 500 adult probationers under a single officer; and some frankly stated that they attempted little or no supervision in adult cases. In general the juvenile-case loads were lighter than the adult-case loads.[6]

As appointment based upon a system of competitive examination is comparatively infrequent in probation work, it is encouraging to find that in the majority of the courts included in the study appointments were made from eligible lists established after examinations held by civil-service commissions or other agencies. In the New Jersey courts, for example, initial appointments were made from State civil-service registers, and provision was made for regular increases in salary after promotional examinations. Several courts failed to obtain full value from the merit system of appointment because some of the staff members assigned to social-service work were appointed as constables or other court officials not covered by the competitive-examination system. As a rule, the probation departments in which appointments were made from lists established through competitive examination did not prescribe definite standards of education and experience. The New Jersey examinations, however, did prescribe such standards, though they were usually very low with reference to education, and examinations for the New York City domestic-relations court required one year's social-service experience, though experience in a volunteer capacity was sometimes accepted.[7]

Not many members of the probation departments had the training and experience outlined in the standards as desirable—graduation from college or its equivalent or from a school of social work and at least one year in case work under supervision. This may be explained in part by the salaries paid, which as a rule were markedly inadequate, and in part by the fact that probation work in most communities has not yet been placed upon so firm a professional basis as social work done by private family-welfare organizations or by child-caring agencies with high standards. Opportunities for training and for professional advancement and recognition are believed to be less, and young workers with good general education and professional preparation are not so eager to enter this field. Yet the case loads carried by probation officers are much heavier in most courts than the case loads of workers in private organizations of the kind mentioned, and the work is more difficult and more responsible than that of many private agencies.

Several of the chief probation officers and some of the other officers were law-school graduates. A few women probation officers were graduate nurses. In one court none of the probation officers had

[6] Later information indicated some improvement in case loads in a number of the courts studied.

[7] The probation laws of New York State were strengthened greatly by legislation enacted in 1928 providing that probation officers shall be selected because of definite qualifications as to character, ability, and training. (Acts of Mar. 9 and 21, 1928, chs. 313 and 460, Laws of 1928, pp. 795, 1013.)

had training or previous experience in social work; one officer had been a public-health nurse. In another court the staff dealing with adult domestic-relations cases was composed exclusively of persons who had had experience only as constables or sheriffs or in courthouse clerical work. In a court with a separate domestic-relations division only one of eight investigators had any training or previous experience related to the work, and her training had been limited to a period of six months.

A few of the courts had staffs better prepared by education and in some cases by experience. Thus in the District of Columbia juvenile court nearly all the probation officers were college or law-school graduates, and several had had previous experience in social work. One of the six members of the staff of the domestic-relations division of the Boston municipal court's probation department was a member of the bar and had had four years' unusually successful experience in the juvenile court of Boston; and the one woman officer—also a member of the bar—had had experience in settlement work and in a family-welfare society. Three had had no previous social-service experience; one had been an attorney, one the chief clerk of the probation department, and one was a law student. One had family-welfare experience.

Several of the executives of probation departments serving domestic-relations courts and other courts and one devoting full time to domestic-relations and juvenile-court work received in 1931 salaries ranging from $5,600 to $9,000, and a number received $3,000 to $4,100; but some received $2,500 to $2,850 or even as little as $1,920. Most of the chief probation officers received salaries too low for positions of such responsibility. In probation departments with supervisors of divisions as well as chief probation officers 5 had salaries ranging from $2,000 to $3,000, 5 had a higher range (to $5,000 in one court), and 2 had a lower range. Salaries of investigators and probation officers ranged from $1,080 to $3,400; only a few probation officers received less than $1,800 or more than $3,000.[8]

On the whole the most adequate salary scale was found in the probation departments of Essex and Hudson Counties, N. J., which served all the courts in their respective counties. In Essex County the chief probation officer received $9,000, the assistant chief probation officer received $5,000, the probation officers in charge received $3,600, and the probation officers received $2,160 to $3,360. In Hudson County the chief probation officer received $7,500, officers in supervisory positions received $3,500 to $3,800 (except one receiving a nominal salary), and the salaries of probation officers were $2,400 to $3,400.

Information on salaries summarized for 20 probation departments serving large cities included in the study [9] showed that in 13 of these the chief probation officer received in 1931 less than $3,500 or some of the probation officers received less than $1,800, or both these conditions existed. Information subsequent to 1931 has not been obtained.

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[8] In some courts persons assigned to the investigation of cases are termed "investigators," the term "probation officer" being reserved for those supervising persons on probation. Information on salaries presented in the first edition of this report related to the year 1927. From 1927 to 1931 there had been improvement in salaries in some courts, but on the whole there was little change.

[9] Two of these were in New York City, the children's court and the magistrates' court of which the family court was a part.

PRECOURT WORK AND INVESTIGATION OF CASES

3. *The judge or a probation officer designated by him should examine all complaints and after adequate investigation should determine whether formal court action is to be taken. It should be the duty of the court to bring about adjustment of cases without formal court action whenever possible.*

Social investigation should be made in every case and should be set in motion at the moment of the court's earliest knowledge of the case. Psychiatric and psychological study should be made at least in all cases in which the social investigation raises a question of special need for study and should be made before decision concerning treatment, but only by a clinic or an examiner properly qualified for such work.

These standards would apply to cases of nonsupport and desertion and to other family difficulties as well as to juvenile cases; and it is sometimes urged that so far as they relate to conciliation service and social investigation they are applicable to divorce cases, at least where children are involved. (See p. 59.) For the purpose of this summary only juvenile cases, nonsupport and desertion cases, and divorce cases will be considered, as these usually represent the most important classes numerically.

Most of the courts with juvenile jurisdiction included in the study were following the tendency noted in most juvenile courts throughout the country in placing considerable emphasis on the unofficial adjustment of children's cases, especially cases of delinquency.[10] The practice varied from that in courts adjusting only a small minority of children's cases unofficially to that in courts like the family court of Hamilton County, Ohio, which adjusted nearly all children's cases unofficially.

Nineteen courts (not including two courts serving rural counties) were dealing with considerable numbers of nonsupport and desertion cases. In 12 of these emphasis was placed on unofficial adjustment, and in most of the others some work was done along this line, either by the court or by a cooperating private agency. Some courts had developed a comprehensive technique for this kind of service, including individual interviews with the complainant and defendant, home visits, and joint interviews, with agreements to pay through the court in many cases. Such agreements were approved by the judge in the New York and Philadelphia courts, and under the law these had all the force of official court orders. Needless to say, the services of attorneys in these cases were not required, though defendants were often represented by attorneys. All that was necessary to initiate action was for the mother to tell her story to an officer of the court.

Eight courts included in the study had divorce jurisdiction. In three of these considerable emphasis was placed on conciliation service in divorce cases, either before or after the filing of the petition or libel. In a fourth court two probation officers gave full time to

[10] Juvenile courts receive many complaints which are regarded by some judges as not requiring formal judicial treatment or official determination of the status of the child. For instance, complaints of trivial offenses can often be settled with a warning to the child, and it would involve needless expense for the court and trouble for all concerned to insist on service of notice and formal hearing. As the juvenile court becomes well established in the community parents and others bring to the attention of its officers problems of conduct or of environment which call merely for advice or for direction to the social agency best equipped to handle the difficulty. In addition to giving advice which does not involve assuming responsibility for the child, many courts make a practice of supervising children whose parents desire them to have the benefit of such oversight and guidance without the formality of hearing and of determination of delinquency. (Juvenile Courts at Work, p. 109.)

adjusting domestic controversies of various kinds, but this work was not closely related to the divorce business of the court.

All or practically all the juvenile cases were investigated in most of the courts having juvenile jurisdiction. Sometimes investigations were not made in unofficial delinquency cases. In one court the investigations in many juvenile cases were made by police officers. In some courts investigations were not made in all juvenile cases; one usually postponed home investigations until after the child had been placed on probation. The investigation varied from a few items entered on a small card to complete investigations reviewed by the chief probation officer or other supervisory officer. In several courts juvenile cases were not cleared with the social-service exchange as a matter of routine.

All but 3 of the 19 courts (not including 2 courts serving rural counties) dealing with considerable numbers of desertion and nonsupport cases made some attempt to obtain social histories in these cases, but 4 courts usually limited the investigation to office interviews, sometimes supplemented by verification of earnings and by histories obtained from social agencies knowing the families. One of these courts consulted the social-service exchange in all cases; another consulted the exchange in cases in which warrants were issued. Ten courts made outside investigations in all cases, in all official cases, or in many cases, and another court made them in cases requiring extradition and in probation cases after the defendant had been placed on probation. A twelfth court made investigations in cases in which differing statements as to earnings were made by husband and wife and in some other cases, and consulted the social-service exchange in all official cases after court hearing. The investigations varied from those in which little history was recorded to those in which comprehensive studies of the family history, economic conditions, present difficulty, and care of the children were made.

Investigations in divorce cases include those made to prevent collusive divorce and social investigations made primarily to determine what the provision should be, through custody and alimony orders, for the welfare of the children. The latter type of investigation involves determination of the parents' fitness to have custody of the children, their financial ability, and arrangements that can be made for avoiding the conflicts with reference to the children's care, education, and guidance often incident to divorce or separation and frequently disastrous in their effects on the children.

In four of the eight courts having divorce jurisdiction investigations in divorce cases were not usually made, though in one court the judge ordered investigation if he was in doubt concerning the custody of the children; one court obtained fairly comprehensive information through office interviews; and three made investigations that included home visits. One of the courts not making investigations had formerly made them in all cases, covering chiefly the character and reputation of the parents and the alleged grounds for divorce; another had made them in cases involving children under the age of 14 years, covering the condition of the children and the arrangements that should be made for their care but not covering the grounds for divorce. In the former court a later judge had discontinued the practice; in the latter the policy of making investigations had been abandoned, except in case of special need, because the probation

officer who had made the investigations had resigned and his successor's work in that field had been unsatisfactory. One of the three courts making investigations that included home visits made them in all divorce cases; another made them in uncontested divorce cases and in cases involving children; and the third made them in cases involving minor children. In two courts the investigation covered the causes of divorce, though in one of these the emphasis was being placed increasingly on the care of the children,[11] and in the third court it was concerned primarily with the condition of the children and the provision that should be made for their care.

Few courts had made adequate provision for physical and mental examination of either children or adults. Special child-guidance clinic or psychiatric service was available to 6 of the 20 courts with juvenile jurisdiction for which information on this point was obtained (not including courts serving rural counties). In some of the other courts such service was available for a limited number of cases, and some provided facilities for psychological testing without psychiatric study. A full-time psychologist was on the staff of one of these courts.

In a few courts facilities for physical and mental examinations were available for nonsupport and desertion cases when need was indicated. Three courts were parts of a municipal-court organization with a medical and psychiatric department in which physical and mental examinations were made. In one of these courts it was said that in nonsupport and desertion cases the wives and children of the defendants as well as the defendants themselves were sometimes referred to the psychiatric department.

HEARINGS AND ORDERS

4. *Hearings should be held promptly, and unnecessary publicity and formality should be avoided.*

Sufficient resources should be available for home supervision or for institutional care, so that in disposing of each case the court may fit the treatment to the individual needs disclosed.

Juvenile hearings were conducted informally in all the courts having juvenile jurisdiction.[12] The general public was excluded from all juvenile hearings, but in some courts a considerable number of persons—staff members, representatives of social agencies, and visitors—were present.

Most of the courts with jurisdiction over nonsupport and desertion cases, illegitimacy cases, and cases of contributing to the delinquency or dependency of children conducted the hearings in a simple and informal manner unless the cases were contested or unless jury trials were demanded. As a rule, persons not concerned in the cases were not present. Some courts, however, conducted hearings in a formally arranged court room, and all persons interested in cases to

[11] Investigations in this court were condemned severely by a committee appointed by the bar association to inquire into the legal status and activities of the investigators of the courts of domestic relations. The reports of the investigators were criticized as including hearsay evidence, coming between attorneys and clients, and assuming undue authority. It was stated that although the condition of the children was inquired into, the investigations concerned mainly the grounds for divorce. (See Report of Committee Appointed to Inquire into the Legal Status and Activities of the Investigators of the Courts of Domestic Relations, St. Louis Bar Association, Oct. 8, 1923.) Thereafter, although the practice of making investigations continued, the investigators curtailed their work in certain directions; but by 1929 the services connected with the adjustment of domestic difficulties before filing of petitions had been resumed.

[12] In the New York City court each case had two hearings, the first being conducted more formally than the second.

be heard during the session were present, as were spectators in some instances. In these courts the cases involving especially difficult testimony, such as illegitimacy cases, were sometimes heard in the judge's private office, and some of the court rooms were so arranged that the spectators were at a distance from the bench and could not hear proceedings conducted in low tones.

In one of the courts having jurisdiction over divorce cases the divorce hearings were conducted in a small, informally arranged room with few persons in attendance, and in another they were conducted in a small uncrowded court room. In six courts they were conducted in ordinary court rooms, the sessions of one part of one of these courts being held in a large crowded room, under conditions no better than those prevailing in divorce courts where no attempt at special organization for domestic-relations work had been made. The court that held public hearings under undesirable conditions had a rule providing for chamber hearings in the discretion of the court, with the consent of the parties; and reports of the proceedings in such chamber hearings were not given to the public. The rule in this court further provided for cooperative arrangements with the press looking toward the elimination of newspaper publicity in divorce cases, except for bare recital of filing of suits, grounds alleged, and decrees granted.

The inadequacy of the resources for constructive supervision of probationers at the disposal of most of the courts has been indicated in the discussion of the probation staff. Facilities for caring for children who had to be provided for outside their own homes usually were inadequate in some respects, a situation prevailing in most juvenile courts throughout the country.

The courts having jurisdiction over nonsupport used probation or its equivalent [13] in these cases, the defendants often being required to give security for compliance with the order of the court. In a number of communities 50 cents or more a day was paid for the support of families of defendants sentenced to the workhouse or to hard labor. The highest payment per diem provided was in Norfolk and Richmond, Va., where families of prisoners sentenced to labor on the roads received from 50 cents to $1 a day for the wife and 25 cents additional for each child, the maximum amount being $1.75.

In some courts—that in Chicago, for example—probation was not used in illegitimacy cases, and no constructive supervision was given except through cooperating private agencies. In Boston, on the other hand, the procedure was criminal and probation could be ordered, and constructive case work was done over long periods with defendants and with mothers and children.

PROBATIONARY SUPERVISION

5. *A definite plan for constructive work, even though it be tentative, should be made and recorded in each case and should be checked up at least monthly in conference with the chief probation officer or other supervisor.*

Reporting, when rightly safeguarded, is a valuable part of supervision, but it should never be made a substitute for more constructive methods of case work. Frequent home visits are essential to effective supervision,

[13] Sometimes the defendant was placed on parole under suspended sentence, sometimes simply under court order to support.

knowledge of the assets and liabilities of the family, and correction of unfavorable conditions.

Reconstructive work with the family should be undertaken whenever necessary, either by the probation officer himself or in cooperation with other social agencies. Whenever other agencies can meet particular needs their services should be enlisted.

Provision should be made by the court for collection of orders in non-support and illegitimacy cases, and for assistance, when necessary, in the collection of alimony orders.

For the 21 courts with juvenile jurisdiction included in the study information was obtained concerning methods of probationary supervision in children's cases: In 4 of these courts little attempt was made to give intensive supervision in these cases, though 1 selected a few of the most urgent cases for probationary supervision, and in 2 of them it was not even possible to ascertain the number of active cases on probation.[14] In only a few of the courts was fairly intensive work done in children's cases, including the formulation of a plan which was reviewed at intervals by the judge or a probation officer, frequent home visits, and enlistment of the cooperation of outside agencies to meet the needs of the children and their families. Some of the courts were doing the most thorough case work possible in view of the large numbers of cases under the supervision of each probation officer. The reporting system was usually relied upon, at least in boys' cases. Nearly all the courts stated that the aim was to make home visits monthly, and some of them attempted to visit more often, but pressure of work prevented frequent visits in many instances. Cooperation with social agencies was also generally stated to be the practice.

Fourteen of the group of 19 courts exercising jurisdiction in non-support and desertion cases attempted to give probationary supervision, though in many of them constructive case work was impossible in the majority of cases because of the heavy case loads carried by the probation officers. Five of these 14 formulated definite plans in the beginning of the probation period, and usually required reports from the probationers (one requiring them under exceptional circumstances only), made an effort to visit the families monthly, semi-monthly, or more often, and enlisted the cooperation of social agencies in meeting special needs.[15] Nine of the 14 courts gave some probationary supervision but were unable to give much intensive service. They made some home visits, referred the families to social or health agencies if special problems existed, and kept in touch with probationers through reports, usually in connection with payment of orders to support. In one court all such cases were supervised by a private organization. The remaining courts in this group attempted practically no case work with the families of probationers, limiting their service mostly to collection of the amounts ordered.

The eight courts having divorce jurisdiction gave little or no follow-up supervision in divorce cases involving children. Such supervision, given in some cases by one court, had been discontinued for a time as a result of adverse criticism by the bar association, and was later resumed to some extent.[16]

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[14] Later information for two of these courts indicated some improvement.
[15] Two of these courts, in Essex County, N. J., were served by the same probation department.
[16] See footnote 11, p. 44.

Information on methods of collecting money ordered by the court for the support of probationers' families was obtained for the courts studied that exercised jurisdiction in cases of nonsupport and desertion. Payments were made through the cashier's office, the clerk's office, a special auditing department, or the probation department; and for one court through the overseers of the poor. Some courts required the mothers to call in person for their money, and some mailed the checks. In several courts a careful system of checking the regularity of payments and sending notices to men delinquent in payments had been developed; in others the initiative in following up delinquent accounts rested with the mothers, assistance being given by the courts when complaints were received. A collection fee of about 10 cents a week was charged in one court.

Alimony ordered in divorce cases was paid through the court or probation office in five of the eight courts having divorce jurisdiction. In a sixth the alimony usually was paid through the court, and a seventh gave assistance in collecting delinquent accounts when complaints were made. The eighth court gave no assistance whatever in this matter; if payments were in arrears, the wife had to employ a lawyer to represent her in civil proceedings or to start a criminal action for nonsupport in another court. In one court the payments were made to a probation officer, who then sent out checks to the women. This officer kept record of the accounts and followed up delinquent accounts by letter.

Most of the eight courts dealing with illegitimacy cases [17] had the payments ordered in such cases made through the court in the same way in which payments were made in nonsupport cases. Case work with mothers and children was attempted in three courts, though in one the case load was extremely heavy; and a fourth had a comprehensive program for the care of children born out of wedlock through aid to expectant and nursing mothers and other measures. In one court the cases came through the overseers of the poor, and no social-service work was attempted by the court. Except for reference to social agencies and hospitals no case work in illegitimacy cases was done in the remaining three courts.

RECORD SYSTEM

6. *Every court should have a record system which provides for the necessary legal records and for social records covering the investigation of the case and the work accomplished. The records of investigation should include all the facts necessary to a constructive plan of treatment. The records of supervision should show the constructive case work planned, attempted, and accomplished, and should give a chronological history of the supervisory work.*

In the majority of the courts included in the study the social records did not meet the standards specified in either juvenile or adult cases. The records of supervision were as a rule less complete than the records of investigation.

[17] Excluding those dealing only with an occasional case, in one of which illegitimacy cases were included in the general nonsupport jurisdiction of the court.

EXTENT OF COURTS' CONFORMITY TO STANDARDS

The extent to which the organization and procedure of the courts included in the study conformed to the standards outlined may be stated as follows:

1. In a majority of the communities whose courts were studied the establishment of family courts brought cases involving family problems to the consideration of judges who regarded this work as a specialty and who were sincerely interested in developing better standards. This situation did not exist, however, in some of the courts, especially the domestic-relations courts without juvenile jurisdiction, in which the periods of the judges' service were usually very short.

2. In a majority of the courts probation officers were appointed from eligible lists established through competitive examinations. Salaries were markedly inadequate in 13 of the 20 probation departments serving large cities included in the study for which information on this point was obtained. Not many probation officers had adequate preparatory training and experience, and the probation departments of all but five or six courts were so understaffed that the officers were carrying excessively heavy case loads and could not give enough attention to the cases intrusted to them. Officers supervising adults were usually responsible for a much larger number of probationers than were officers supervising juveniles.

3. In most of the courts considerable emphasis was placed on unofficial adjustment in nonsupport and other domestic-relations cases, as well as in juvenile cases; and a comprehensive technique had been worked out in some courts. Conciliation service in divorce cases had been relatively less developed. The majority of courts made field investigations in some of or all the nonsupport and desertion cases, and a few made thorough studies; husbands and wives involved in nonsupport cases were not given physical or mental examinations except in occasional instances or if the need for examination was obvious. Field investigations were made in divorce cases in three of the eight courts having divorce jurisdiction.

4. Court proceedings in nonsupport and desertion cases and other domestic-relations cases (excluding divorce) were for the most part simple and informal, and persons not concerned in the cases were not usually present. In some courts, however, these conditions did not prevail. Little improvement had been made in divorce hearings except in two or three courts.

5. In only a few of the courts having juvenile jurisdiction for which information was obtained concerning probationary supervision in children's cases was even fairly intensive work done in these cases. Methods of collecting money through the court in nonsupport and desertion cases had been rather well developed, though in some courts no follow-up of delinquent accounts was made as a matter of routine. Probationary supervision was attempted by 14 of the 19 courts exercising jurisdiction in nonsupport and desertion cases, but inadequate staff in most of them made intensive work difficult or impossible. Little or no follow-up supervision was given in divorce cases involving children, though assistance in collecting alimony was usually available.

6. Social records in most courts did not give an adequate picture of the problems involved and the work accomplished.

EFFECT OF FAMILY-COURT ORGANIZATION ON JUVENILE-COURT WORK

One of the questions frequently raised in discussions of the advisability of consolidating in one court the jurisdiction over juvenile cases and certain types of adult cases is the effect that such consolidation may have upon the juvenile work of the court. It is argued that the original purpose of the juvenile court was separation of children's cases from adult cases in order to avoid contacts between children and adult offenders, to remove the stigma connected with bringing children to a court which also deals with criminal cases, and—of special importance—to permit the court to center all its attention on the juvenile problem. On the other hand, those advocating the consolidation in one court of children's cases, cases of adults offending against children, cases of nonsupport and desertion, and cases of divorce are impressed with the desirability of enabling the court dealing with children to dispose of related problems that closely affect their welfare and to extend the safeguards of the juvenile court to children who must appear as witnesses in cases against adults.

In the study of the Ohio courts special attention was given to these considerations. So far as could be observed the only serious difficulty involved in the exercise of the extensive jurisdiction that these courts possessed was the overloading of the judge with divorce cases. The proportion of the judge's time devoted to divorce business was naturally much greater than the proportion that the divorce cases bore to the total number of cases dealt with, inasmuch as all divorce cases were heard by the judge, whereas many of the other cases (especially in Hamilton County, Ohio) were handled unofficially by the probation department. Contested divorce cases also occupied a very much longer time than cases of any other type. Three of the four Ohio courts studied were devoting three and a half or four of the five and a half working days of the week to the divorce business of the court, and the fourth (that in Mahoning County) was giving two and a half days to it.

The organizing of the St. Louis domestic-relations court had practically no effect on the work of the juvenile court, as the juvenile division was entirely separate from the domestic-relations division. The juvenile court of Jefferson County (Birmingham), Ala., had been weakened by the organizing of the domestic-relations court, as the law provided for dual control by the two judges, but this situation was corrected by making provision for a single judge. (See p. 36.) The chief probation officer, acting as referee, heard some of the children's cases, but both the judge and the chief probation officer were overburdened. Juvenile-court work in New York State and in Virginia was greatly strengthened by the legislation that had been enacted. As has been pointed out (p. 37), the New York children's courts were proceeding cautiously in the exercise of adult jurisdiction. In most of the juvenile courts with broad jurisdiction the adult jurisdiction had developed gradually, and as a result there had been no disorganization of the juvenile work. The adult jurisdiction of the Philadelphia municipal court had little effect on the juvenile work, as the juvenile work and the domestic-relations work were done by separate divisions. The juvenile division had the services of the medical department, the central record bureau, the statistical division, and other service divisions maintained by the court.

In courts in which the combined juvenile and adult business is not too heavy for one judge and the juvenile work alone would not occupy his full time, the combination of juvenile and adult jurisdiction has enabled the judge to devote all his time to problems connected with child and family welfare. With a few exceptions probation officers already engaged in juvenile work have not been burdened with adult cases as a result of the organization of family courts, the juvenile case loads generally being lighter than the adult case loads, as has been pointed out. But in many communities the juvenile court was greatly in need of a larger, better-organized staff, and it may be questioned whether the time, effort, and money devoted to domestic-relations cases should not have been directed first of all toward improving the service rendered in children's cases. In some communities juvenile-court work undoubtedly has been damaged through the effect the family-court movement has had upon public opinion. It is a mistake to regard the juvenile court as a task accomplished, as a foundation upon which to rear the structure of a family court, before the juvenile court has been given sufficient attention and intelligent criticism to enable it to fulfill its aims

FUNDAMENTAL CONSIDERATIONS IN THE EXTENSION OF THE NEW JUDICIAL TECHNIQUE

SAFEGUARDING THE JUVENILE COURT AND CONSOLIDATING THE GAINS MADE

The family-court movement has been in large part an outgrowth of the juvenile court. It has been the result of practical experience which has demonstrated to judges, lawyers, and social workers that problems of child welfare and of family welfare are inextricably intertwined and that the new technique is needed in dealing with certain types of family problems. Obviously the welfare of the child is at stake not only in a delinquency or neglect proceeding but also in a nonsupport proceeding against the father, in an action for the legal separation or divorce of his parents, or in a proceeding to establish the child's paternity. The child, in fact, is the primary reason for the concern of the public with the adults involved in such situations.

In developing the new judicial technique it is important to consolidate the gains made in dealing with certain aspects of the problem which have been attacked first before attempting to cover other sectors. The ideas underlying the juvenile court have been adopted almost universally, but the fact that a legislative body has enacted a principle does not mean that the principle has yet been put into wholly effective operation. Many rural communities and small towns throughout the country have no facilities for dealing with children in need of the protection that a juvenile court can give. Even in many of the larger cities the juvenile court still has an inadequate staff, lacks the means for intensive study of the child, and obtains results chiefly through the method of trial and error instead of through scientific study followed by treatment adapted to the needs discovered.

The primary importance of children's cases has been recognized by the law itself, which has always been peculiarly interested in them. The necessity of treating juvenile cases adequately is universally recognized by legal thinkers, educators, and social economists. The new judicial technique is well adapted to the handling of juvenile cases, and it has been shown that the juvenile court which is based upon that technique can live up to the expectations of its founders. Entirely apart from the relative importance of adult cases and of juvenile cases, if the new machinery and the new technique are not properly fulfilling their existing functions in children's cases, it can hardly be expected that new functions will be performed better.

If the personnel qualified to administer these delicate questions of family relations is insufficient, either in caliber or in number, to handle adults as well as children, questions of domestic relations involving adults should not be allowed to interfere with the work of the juvenile court. It is far better that justice be administered properly and thoroughly in one field, particularly when that field is very important, than that new courts try to do too much and as a consequence do nothing well.

Hopes and aspirations should not be allowed to obscure facts. The condition of the juvenile court is a fact, ascertainable in each

jurisdiction in which it functions. The greatest service that can be performed to-day by those interested in the administration of justice in domestic relations is to see that the juvenile court in their community is properly organized and is properly carrying on its functions. For the most part, except in rural communities, the initial effort of founding juvenile courts is past, but there remains to be done the equally important work of making the juvenile court as stabilized and as competent in its field as are most courts of common law. That work should be given right of way.

This is not to say that the juvenile court necessarily must be continued as a separate court, nor that the extension of the new technique to cases of adults is necessarily inadvisable; but every question of change of court organization or of court technique with respect to domestic relations involving the juvenile court should be considered first of all in the light of its probable effect upon the handling of children's cases.

FLEXIBILITY OF PROGRAM

The point of view indicated in the preceding section would lead to different results in almost every jurisdiction. In some cases it would lead to temporary abandonment of proposals to consolidate in one court all cases of domestic relations and to revitalizing of interest in the work of the juvenile court. In other cases, where the material for the application of the new technique is better and more plentiful, it might lead to the establishment of an omnibus court that, depending largely upon the volume of business, would operate either as a unit or in two parts, one of which would deal with cases involving adults and the other with cases involving children. In still other cases it might lead to two separate courts—a domestic-relations court and a juvenile court.

In none of the communities whose courts were studied has there been developed a family court that exercises complete, exclusive, original jurisdiction over cases of all types included in the study. Attempts at consolidation have succeeded, here with reference to one aspect of the problem and there with reference to another; but in a number of communities the establishment of a family court has not eliminated overlapping jurisdictions. For instance, two different courts still hear nonsupport cases in some communities in which family courts have been established. In such communities it is possible without additional legislation to effect further consolidation through court rule, agreement among prosecuting authorities, and increasing public knowledge of the function of the family court.

One of the outstanding results of this study is the sharp realization that there can be no nation-wide formula for the legal adjustment of family problems. Local conditions vary, and the population of one State differs in both number and character from the population of another. Domestic relations themselves differ with geography. In a seaport city with a large foreign population, for example, the conflicts between parents raised in foreign lands and their children brought up in new surroundings may crowd the court; in an agricultural community conflicts may arise from dissatisfaction with rural life on the part of the younger generation. In one community there may be an excellent judge and a large and efficient probation staff supported by a group of lawyers and social workers who see that

proper standards are maintained in domestic-relations courts; in another these vital elements may be absent. Fifty years ago the people of one State may have guessed better than the people of another as to the kind of court structure that the constitution should impose upon future generations; the court structure even of municipalities is often embodied in the State constitution or entrenched behind the ramparts of politics. All these variations and many more came to light in this study. In evaluating the work of family courts it must always be remembered, first, that generalizations are unsafe; second, that the problem of the law, the family, and the court can never be solved adequately unless local conditions are kept constantly in mind.

ADEQUACY OF PERSONNEL

Most of the statements favoring the establishment of family courts dwell on the advantages that should be derived from their foundation or extension; comparatively little reference is made to the handicaps under which such courts must labor without sufficient and adequately trained personnel. Yet without such personnel a family court may be worse than useless; instead of being an administrator of justice in the light of modern conditions and scientific study it may degenerate into an unwarranted and harmful meddler in domestic affairs.

It is useless to talk about making the administration of justice a process of social engineering if the first principle of both engineering and the administration of justice is not observed—supplying the tools with which the work must be done. It is futile to attempt to adapt law to an industrialized society unless the instruments of law are organized with the efficiency that industry itself has attained. One probation worker can no more handle 150 cases of juvenile delinquency adequately than a judge can adjudicate 150 points of law simultaneously. The new judicial technique, whatever advantages it may have, does not possess the ability to cure by waving a magic wand.

A scientific attitude toward the administration of the law of domestic relations implies recognition of the fact that most family courts are poorly equipped to fulfill the purposes for which they were founded. As quickly as possible the standards previously set forth for judges and probation officers (see p. 38) should be reached in existing courts, and enlarged powers should not be conferred nor new courts created until careful plans for administration have been formulated.

UTILIZATION AND STIMULATION OF COMMUNITY RESOURCES

If it is to be successful a family court must utilize to the fullest extent other social agencies in the community. Not only does a large part of the work carried on by family courts belong functionally as much to these other agencies as it does to the courts, but in many cases the outside groups are able to supply service that the court is not equipped to give.

Of course the outside agencies may have the same shortcomings as the family courts. They may not be properly oriented among themselves, and as a consequence their work may overlap as much as the old courts are accused of overlapping. Or, as this study discloses, the family court and the outside organizations may themselves overlap in their endeavors. Once more the difficulty of formulating a general rule without reference to local conditions becomes apparent.

If the resources of the community do not meet the needs discovered it is the duty of the court to inform the public from time to time and to cooperate to the fullest extent with other agencies in obtaining more satisfactory provision. For example, sufficient resources for foster-home care and institutional care of children may be lacking. Facilities for family-welfare service, including help in budget planning and in adjusting various family difficulties, may be inadequate. Provision for diagnosis and treatment of mothers and fathers incapacitated by physical or mental disability may be insufficient. For obtaining these and many other items of an adequate community program the court shares responsibility with other organizations.

RESEARCH AND THE DEVELOPMENT OF SCIENTIFIC METHODS

Few courts of any type are equipped to do research work. Child-guidance clinics working with juvenile courts in a number of communities have been accumulating information concerning the causes and methods of treatment of delinquency which is invaluable as a basis for developing programs of treatment and prevention.[1] In the field of marital maladjustments and other domestic difficulties research is equally necessary, but as yet little has been attempted. Exceptions are the studies of men and women involved in a selected number of domestic-relations cases in the Detroit recorder's court, made by the psychopathic clinic of that court, and the intensive study and treatment of a limited number of neglect cases by the psychopathic clinic maintained in connection with the juvenile court of Detroit, also the studies of causes of marital difficulties in a group of divorce cases dealt with by the Cincinnati court.[2] Some municipal courts (as in Chicago and Philadelphia) have a psychopathic laboratory or neuropsychiatric division. However, few family courts or courts of domestic relations can be expected under present conditions to be equipped with facilities for scientific research.

As the child-guidance movement has been initiated and for the most part carried on by private effort, so might nongovernmental endeavor be directed toward the establishment of domestic-relations clinics, possibly in connection with legal-aid bureaus. These clinics should be equipped to render diagnostic service and unofficial assistance in the medical, psychiatric, and social fields to those asking help in solving difficulties connected with marital or other family relations or referred by courts for such service. Such organizations, besides being of immediate assistance to the families with which they came in contact, would make available for the first time a factual basis for programs of prevention and treatment and for measurement of the efficiency of legal and nonlegal institutions as agencies dealing with family maladjustments.[3]

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[1] For example, the early work of Dr. William Healy and Dr. Augusta F. Bronner in connection with the Chicago juvenile court and their present work in the Judge Baker Foundation in Boston, and the work of other child-guidance clinics.

[2] See One Hundred Domestic-Relations Problems, by Helen Flinn and Arnold L. Jacoby (Mentals Hygiene, vol. 10, No. 4 (October, 1926), pp. 732–742), and Sex Antagonism in Divorce, by Hornell Hart and M. E. McChristie (Proceedings of the National Probation Association, 1922, pp. 135–141).

[3] The tendency in the field of the physical sciences is also applicable to sciences dealing with human behavior and social organization, though its development is naturally much more difficult in the latter field. "Experts recognize that the day of arbitrary opinion is passing, that experimental research and service experience can best guide every item of the standard. With great gaps in our precise knowledge of the properties of matter and energy, empiricism still rules; but its domain narrows as research gives us measured data based on scientific methods." Standards Year Book, 1927, p. 6. U. S. Bureau of Standards Miscellaneous Publication No. 77. Washington, 1927.

APPLICATION OF THE NEW TECHNIQUE TO SPECIFIED TYPES OF CASES

In the review of various considerations applicable to the treatment of cases of domestic relations when they come into contact with law these cases in the main have been treated generically. At this point, however, the law of domestic relations, apart from the treatment of juvenile delinquency and dependency, which has already been considered, can be separated into its component parts. It is important to ascertain how each group of cases relevant to this study is affected by the possibilities and limitations of the new judicial technique and court reorganization, to endeavor to fix some limits as to what courts can and should hope to accomplish in these cases, and to orient their treatment with the principle of safeguarding the juvenile court.

It is necessary in considering each type of case to bear in mind, as has been emphasized in this report, that the program for a given community must be based upon careful analysis of local conditions and adaptation of general principles to local needs. The family-court movement is still in an experimental stage, and no final statement of principles with reference to the scope of the new courts can yet be made. In fact, in this stage of development it matters little what aspects of the family problem are brought within the jurisdiction of the new courts in various localities so long as effective standards of dealing with the problems selected are developed.

In the opinion of the writers any attempt to judge the efficacy of existing courts by a standardized outline of a so-called model court would be actually detrimental. Experiments in the treatment of the different types of cases coming within the general scope of this report are greatly to be desired, and local situations must determine the parts of the problem to be attacked first. It is extremely helpful to the whole movement, for example, when a court in one locality undertakes a demonstration of what socialized treatment of nonsupport cases really involves, while a court in another community may be developing such methods of cooperation with courts having divorce jurisdiction as will insure adequate treatment of matters affecting the custody and welfare of the children involved.

In considering any particular type of case with reference to any given local situation the first question to answer is "How can adequate administrative standards be developed best in this field?" When careful study of existing conditions indicates that further advance is possible in the direction of socialized treatment of family problems certain general considerations applicable to the various subjects coming within the jurisdiction of family courts in different communities may be helpful. These will be suggested in the following paragraphs.

OFFENSES AGAINST CHILDREN

Acts or omissions of adults in regard to children come under legal cognizance in three classes of cases: Those in which an adult is

accused of a crime against a minor, those in which the adult has failed to fulfill a duty toward a minor, and those in which the adult is accused of causing juvenile delinquency or dependency or of tending to cause it.

Included in the first group of cases are certain types of offenses against minors that clearly do not require thorough investigation of environment or need for continuous treatment, as cases in which an adult has stolen from a minor. In some jurisdictions all such cases come under the family court, but it is obviously unnecessary for them to be handled by a court whose main object is socialized treatment of children. Certain other offenses are more closely analogous to the third group of cases—those in which the adult is accused of causing or attempting to cause juvenile delinquency. These cases affect or have a bearing upon the child's care and development and should be considered from the social point of view. They include not only cases of sex offenses against children but also certain other types of cases covered by criminal law, such as the purchase of junk from minors. Some of these types of cases are usually dealt with as contributing to delinquency and can be treated very satisfactorily in this manner. Whether serious sex crimes should be dealt with in the juvenile court is a more difficult question. The children involved need the protection given by the absence of the atmosphere of the criminal court and of publicity, and they usually require careful study and treatment in order that they may be helped to recover from the effects of the exploitation they have suffered. Nevertheless the accused is charged with a most serious crime and is entitled to all the safeguards provided by the criminal law. In any event a method of cooperation between the juvenile court and the prosecuting authorities such as has been developed in certain jurisdictions could be adopted immediately,[1] and the criminal court could make it an invariable practice to refer the minors involved to the juvenile court for investigation and treatment.

The second group of cases, in which an adult has failed to fulfill a duty toward a minor, is illustrated mainly by nonsupport and desertion cases, which will be discussed in the following section. Failure to comply with school-attendance laws or to furnish medical care, and other types of failure to fulfill parental obligations are dealt with sometimes under specific charges, sometimes under the general charge of neglect, sometimes under the charge of contributing to delinquency or dependency. These cases are closely related to the dependency-and-neglect jurisdiction of the juvenile court, and they should be dealt with by the same tribunal and receive the same socialized treatment.

The third group of cases can be taken as excluding crimes against children and cases of desertion and nonsupport but including all other cases in which the adult is accused of causing or tending to cause juvenile delinquency or dependency. As a rule they are closely related to some juvenile problem already before the court, and jurisdiction over them belongs properly to the juvenile or family court. Their number is not usually so great as to place that court under undue strain.

[1] See Juvenile Courts at Work, pp. 221–224.

NONSUPPORT AND DESERTION

Such offenses as nonsupport and desertion of course bear a direct relation to juvenile delinquency and dependency. They are rarely the result of a deliberate desire to violate either the law or the traditional obligations of the family. Rather they are caused by economic conditions, poverty, and physical and mental limitations. In most cases the old criminal treatment is inadequate. Nor are intermittent police-court hearings and orders to pay money much more efficacious. Nonsupport is usually an evidence of home conditions seriously detrimental to the welfare of the children. As a general rule, much more than the enforcement of the payment of support orders is necessary. Physical examination and psychiatric study of one or more members of the family, medical care, and vocational and social adjustments may be needed. In these cases of adults the new judicial technique can be most helpful if properly administered. These also are the cases in which jurisdiction is often most confused. In some localities the police court, the criminal court, the juvenile court, the family court, and a number of social agencies all attack the same family problem.

The practical difficulties, however, of treating these cases in the new way are great. The volume of such cases in the larger cities is enormous. To unload them upon the juvenile court subjects it to undue strain unless a reallocation of jurisdiction of this kind can be accompanied by a proper supplementing of the juvenile-court staff. The same comment applies to the family court having juvenile and adult jurisdiction. Establishing a separate court of domestic relations concerned mainly with nonsupport and desertion cases may be the best solution in some communities, but in view of the close interrelation between these cases and juvenile cases the absolute separation of the two classes involves certain losses.

This class of cases exemplifies the necessity of trying to do one thing well; or, if it is being done well, to assure its future before attacking new problems with inadequate tools. It is true that children's cases often can not be treated adequately without proper treatment of the adults involved, but it may be better to proceed with this handicap than to undermine the quality of all the work being done.

This of course is the negative side of the picture. Great need exists for coordinating and improving the treatment of these cases, which have so important a bearing on the preservation of the home and the welfare of the children. As rapidly as the new technique can be extended to embrace them without hampering the development of the juvenile court such action should be taken. Whether they should be placed in the juvenile court, a separate court of domestic relations, or a family court of broad jurisdiction will depend upon circumstances; but whenever the combined volume of work will not be too great for a single court that organization appears to be preferable. Within the organization specialization of service is desirable; for example, certain probation officers should devote all their time to the conduct problems of children, and others should specialize on family problems, including cases of neglect, contributing to dependency, and nonsupport.

Some experiments have been made in the extension of equity procedure to nonsupport cases. The domestic-relations division of the city court of Buffalo has been given equity powers (see p. 14), and the New York State children's court act provides for civil proceedings in nonsupport cases and specifies that a judgment of "disorderly person" shall not be necessary in making an order.[2] It has been noted that in certain jurisdictions action to compel support is brought under a contributing-to-dependency statute. Contributing to dependency may be dealt with in Colorado either as a misdemeanor or under equity procedure, and the Denver juvenile court used equity procedure in all except the most seriously contested or extradition cases of nonsupport. Some provision for informal procedure in nonsupport cases is greatly to be desired. This can be accomplished not only by vesting the court with full equity powers but also by a provision such as that existing in the Philadelphia municipal court, in which voluntary agreements are confirmed by the judge without hearing and have the force of official orders. In any event criminal procedure should always be available for cases in which full justice can not be done through voluntary agreements and for cases in which the defendant is outside the court's jurisdiction.

After the question of the court through which the new technique is to be developed has been settled the relation between the court and the other family-welfare agencies of the community remains to be considered. Here again whether intensive family rehabilitation is to be undertaken by the staff of the court or by other family-welfare agencies must be determined in accordance with local resources and local needs. Whatever division of service may be adopted it is essential that the court include on its staff experienced family-welfare workers who are able to make adequate investigations, to carry on conciliation service, to formulate plans, and to utilize the resources of the community in making them effective. Medical and psychiatric clinics also must be available to the court if effective work is to done in this field.

ESTABLISHMENT OF PATERNITY AND ENFORCEMENT OF SUPPORT OF CHILDREN BORN OUT OF WEDLOCK

Proceedings to establish paternity and to enforce support of children born out of wedlock have many problems in common with cases of nonsupport and desertion, involving as they do the determination of the amount of support that should be ordered and the collection of support orders. They are complicated by the difficulty of establishing paternity, the necessity for testimony of a most intimate and embarassing nature, and the urgent need for social service that will help the mother to reestablish herself in the community. They are closely allied with juvenile-court problems, inasmuch as very young mothers or fathers may be already under the jurisdiction of the juvenile court as delinquent or may need the guidance that the juvenile court can give.[3] All the safeguards that can be thrown around the proceeding—such as exclusion of the general public and protection of the mother from revolting cross-examination—

[2] The 1933 law establishing the domestic-relations court for New York City provides for both equity and criminal procedure and eliminates the "disorderly" charge.

[3] In various studies it has been found that one-ninth to nearly one-fourth of the unmarried mothers were under 18 years of age, and one-eighth to more than one-fourth of the fathers were under 21. See Case Work with Unmarried Parents and Their Children, by Katharine F. Lenroot (Hospital Social Service, vol. 12, No. 2 (August, 1925), p. 70).

are greatly to be desired. Except in the largest cities, the number of cases is not so considerable as greatly to overload the juvenile or family court. As rapidly as possible jurisdiction over these cases should be placed in a socialized court having jurisdiction of juvenile cases, or cases of nonsupport and desertion, or both. An added reason for combining nonsupport and illegitimacy jurisdiction is the fact that in more than one-third of the States the father of a child born out of wedlock is liable under the general nonsupport and desertion law.

DIVORCE AND ANNULMENT OF MARRIAGE

GENERAL CONSIDERATIONS

As far as judicial treatment is concerned divorce cases may be divided into two parts: The determination whether or not a divorce should be granted and the proceedings after this question has been settled, including alimony and custody of children.

Some confusion of thought exists between what the substantive law of divorce should be and how the law should be administered; and one school of thought believes that, whatever the law may be, the court should go beyond its strictly judicial functions and try to reconcile the difference between the parties.

Hearings in uncontested divorce cases are perfunctory in many jurisdictions. The real cause of disagreement often is not given in such cases, and sometimes it is not even realized by the parties. Frequently evidence is taken before a master in equity. Doubtless collusion between the parties is common. In contested cases the evidence adduced is more reliable, and a greater array of facts is presented than in uncontested cases; but even in these cases the real difficulty may not be ascertained. A correct diagnosis of marital difficulties is often more a matter for doctors and psychiatrists than for lawyers. The element of sexual maladjustment is coming to be more and more recognized. This element the parties either do not comprehend or will not testify to. In most States it does not of itself constitute a ground for divorce.

Whether divorces should be made easier or harder to obtain is outside the scope of this study. It is for the legislature of each State to determine that question. No court, whether a court of equity or a family court, can or should depart from the requirements which the legislature has laid down. In other words, much of the agitation on this subject should be directed toward the substantive law and not toward the method of its administration.

It is a real question how far the new judicial technique is applicable to cases of divorce. In theory the granting or refusing of a divorce involves only one judicial act, not continuous jurisdiction; but this could be said too, in theory, of juvenile delinquency and dependency. The new method of treatment of cases by the courts is frankly, in some respects, interstitial judicial legislation. Moreover, in two respects—alimony and custody of children—divorce cases do come before the court recurrently.

Determining whether or not a divorce should be granted does not involve the exercise of magisterial discretion that juvenile cases require.

Public opinion—as reflected to some degree in the statutes—has conceded that there should be no hard and fast rules in children's cases; but with respect to the granting of divorces the statutes and the common law speak too plainly to permit doubt. Divorces are to be granted only in certain well-defined cases and under certain conditions. The court, of course, should safeguard itself as much as possible from fraud and collusion, and in many jurisdictions reform is greatly needed. The social investigator in some jurisdictions has been called upon to make field investigations to determine whether fraud exists; but in general, until the existing rules of substantive law are changed, it would seem that the new technique can not and should not be applied to the question of severing marital relations unless the welfare of children is involved.

What has been said with respect to divorce applies also to cases where annulment of marriage is sought. Here, too, the question is chiefly one of substantive law.

ALIMONY

The awarding of alimony after a divorce has been granted involves different considerations. Here there is much more scope for judicial discretion. Several alimony hearings in the same case are usual, sometimes spread over a number of years, and the system of rotation of judges in effect in many courts of equity is not conducive to the most satisfactory handling of such cases. The allowance of alimony, after determination that one of the parties is entitled to it, is really a separate matter from the granting of the divorce, and the method of treatment is different. In short, alimony hearings are much more closely allied to hearings for nonsupport and desertion than to divorce proceedings, and the new technique is intrinsically applicable to both.[4]

CUSTODY OF CHILDREN

When children are involved in a divorce case their custody and welfare become the most important aspect of the whole proceeding from the standpoint of the State; and 38 per cent of the divorces reported in the United States in 1931 involved children.[5] Here certainly the new technique not only is in order but is required for proper determination of the interests involved. Divorce proceedings conducted according to the old rules of evidence are not calculated to bring out the various considerations that should be regarded in determining custody. The problems here are closely allied to the work of the court handling juvenile cases. Indeed if they are not brought to the juvenile court in their inception they may end there in cases of juvenile dependency or delinquency. Divorce cases also are allied closely to cases of nonsupport and desertion because courts dealing with nonsupport cases deal with many families involved later in divorce proceedings. (See p. 27.)

JURISDICTION

Jurisdiction over cases of divorce generally is given to-day to the equity courts. Although a number of students of the problem

[4] See the Michigan law providing for a "friend of the court" to oversee the collection and expenditure of alimony orders, making nonpayment of alimony and leaving the State a felony, and providing for payment of compensation to families of men sentenced to the house of correction for default in alimony payments. (Supp. 1922 (Cahill's), secs. 11499, 11450 (1)-(6).)

[5] Marriage and Divorce, 1931, pp. 47, 48. U. S. Bureau of the Census. Washington, 1932.

believe that the same judge, or at least the same court, should pass upon all aspects of divorce questions and that this judge or court should be the one having jurisdiction in children's cases and other family cases, all the objections to this omnibus treatment that were mentioned in discussion of desertion and nonsupport can be made in this connection also. The volume of divorce cases is very large, and some of the work of the court would be likely to suffer under present conditions. Observations of some courts where the experiment is being tried confirms this statement. (See p. 49.)

Can jurisdiction in divorce cases be split? As a general rule, it is hard to see why it should not be when practical circumstances make it inadvisable to give full jurisdiction to a family court.[6] The juvenile court, for example, could determine custody after an equity court had granted the divorce, or the equity court could send the question of custody to the juvenile court for determination, just as it sometimes sends a question to a court of law to be determined by a jury. At the present time some divorce cases are referred informally to the juvenile court for investigation as to the interests of the children.[7] In the absence of special legislation the practice of such informal reference by the divorce court to the juvenile court should be extended. Wherever jurisdiction is placed the court should be required to have evidence as to the number, ages, and whereabouts of the children entered upon the records before a decree is granted. In 5 per cent of the 182,203 divorces in 1931 no information was available as to whether children were involved.[8]

Alimony cases involving the support of children might be heard by the juvenile court or by a socialized court dealing with cases of nonsupport and desertion, provided it was able to handle the increased volume of business. Where a court of general civil and criminal jurisdiction, including divorce, has a juvenile or family division, as in some Ohio counties and in Iowa and Nebraska, it might be desirable to assign to the juvenile or family division entire responsibility for divorce cases involving children, leaving other divorce cases in the general equity or chancery division. Such an arrangement in Hamilton County, Ohio, for example, would relieve the family-court judge of a large volume of work not involving children at all. Of course local statutory and constitutional provisions in each jurisdiction would have to be taken into account. If possible, the court determining custody and alimony for the support of the children should have

[6] In this connection it is of interest to note a comment made by the executive secretary of the Pennsylvania Children's Commission: "Differing from many States, Pennsylvania has a system of separating entirely the process for hearing and granting divorces from the process of awarding custody of the children. In all divorce cases the master appointed to hear the evidence ascertains the number, ages, and whereabouts of the children of the couple, and this information undoubtedly influences his recommendation to the court with regard to the granting or refusing of the petition. Questions of custody are settled, however, by a different process. Parents are expected to make a private arrangement and decide questions with regard to the care of their children. If either parent wishes to secure the custody of a child or to make a new arrangement to which the other parent does not acquiesce, the case comes into the common-pleas court on a writ of habeas corpus, and the judge awards the custody in accordance with what the evidence indicates will be in the best interests of the child. The consideration of custody apart from divorce decrees is thought to have advantages over the system of awarding custody in connection with the decree. It tends to keep the issues in the divorce case more clearly defined and prevents the bitterness and recrimination characteristic of divorce cases in which both parents are eager to secure the custody of the child or children." Child Welfare Conditions and Resources in Seven Pennsylvania Counties, by Neva R. Deardorff, p. 258. U. S. Children's Bureau Publication No. 176. Washington, 1927. (Available only by purchase from the Government Printing Office.)

[7] As in Denver, Colo., where divorce cases in which children were involved were generally referred to the juvenile court for investigation.

[8] Marriage and Divorce, 1931, pp. 47, 48.

continuing jurisdiction that would permit modifications of orders from time to time as changed conditions might make such modifications necessary or desirable.

It can be argued that such a subdivision of functions would only increase the confusion of jurisdictional alignment that already exists. But if such a subdivision would result in a better handling of the cases, particularly with respect to the important question of custody of the children, that should be sufficient reason for it. An apparent conflict in theory should not obstruct an actual accomplishment.

ADOPTION AND GUARDIANSHIP

Adoption legislation is departing from the purely legal point of view—according to which adoption may be consummated by notarial act or the court is expected merely to sanction a relationship as a justice of the peace solemnizes a wedding—toward the conception of adoption as essentially a process in social case work. Thus the newer laws provide for social investigation and for a trial period in the foster home before a decree is granted, the aim being to insure the welfare of the child and to avoid unnecessary severance of natural family ties.[9]

For the administration of these modern statutes facilities for social investigation are essential, and the judge should have a sound knowledge of the general principles of child-welfare work. The number of such cases to be disposed of during a year is usually small, and in most jurisdictions it would seem desirable to assign them to the juvenile court.[10]

Guardianship may be either of the person or of property. Guardianship of the person of infants, when not created by will or deed, is akin to adoption. Proceedings for the appointment of children's personal guardians and for their removal on the ground of unfitness can best be determined by the juvenile court with its facilities for investigation, although jurisdiction in these cases is generally given to the equity courts.

Guardianship of property involves no considerations that could make the new technique applicable. Property rights of children have always been protected by the common law, supplemented by equity, and there is no reason to disturb the situation. The new courts have enough to do, and generally more than enough, in trying to adjust the more intangible problems of personality.

COMMITMENT OF MENTALLY DEFECTIVE AND INSANE CHILDREN

It is no longer believed that all feeble-minded persons (to the extent to which society is able to provide for their care) should be segregated

[9] See Adoption Laws in the United States, especially pp. 17–18, 20, 25–26 (U. S. Children's Bureau Publication No. 148, Washington, 1925; exhausted; available only in libraries); also Jurisdictional and Social Aspects of Adoption, by Joseph W. Newbold (Minnesota Law Review, vol. 11, No. 7 (June, 1927), pp. 605–623). The last States to discontinue adoption by notarial act and to require court action were Texas and Louisiana. (Tex., act of May 21, 1931, ch. 177, Laws of 1931, p. 300; La., act of July 7, 1932, No. 46, Laws of 1932, p. 239.)

[10] Reporting on the adoption of children in Philadelphia County, Pa., the Pennsylvania Commission Appointed to Study and Revise the Statutes of Pennsylvania Relating to Children made the following recommendations: "The annual number of adoptions is so small that if properly placed in the judicial system the administration of this service would present none of the difficulties growing out of a great volume of work in which standards of performance must be temporarily, at least, sacrificed in the interests of serving great numbers of people. It should be possible for a community of the size of Philadelphia to give adequate attention to the three or four adoptions which occur in a week. Smaller communities which have a proportionately smaller number likewise can give the matter the requisite time to do a thorough piece of work." The commission did not recommend that adoptions be placed under the juvenile court, but the need for social investigation was emphasized. Report to the General Assembly Meeting in 1925, pt. 1, pp. 133–134. Harrisburg, 1925.

in institutions. The question of commitment of a mentally defective child to an institution involves consideration of his home conditions, his own behavior, the special educational facilities available to him, and the possibility of supervision in the community that will safeguard his own interests and those of the public. Obviously the mere determination of the grade of mental defect is not sufficient; the process involves social investigation as well as psychological and psychiatric study. Moreover, feeble-minded children often come before the juvenile court as delinquents or dependents, and the court should have power to select the type of care best adapted to each child's needs. Hence it is desirable to give the juvenile court jurisdiction over these cases, which are comparatively few in number, and over the very few cases of insane children. Already juvenile courts in 9 States and in parts of 6 others have been given exclusive or concurrent jurisdiction over at least certain classes of mentally handicapped children. In 4 States and in part of 1 other the juvenile court has jurisdiction over such children if they are already before the court on another charge. A tendency may be noted also to extend the jurisdiction of the juvenile court to minors who are in need of special care because of physical handicap.[11]

PUBLIC AID TO DEPENDENT CHILDREN IN THEIR OWN HOMES

Chiefly because the movement for granting public aid to dependent children in their own homes (the so-called mothers' pension movement) was in the beginning an outgrowth of the juvenile-court movement, a number of States have placed administration of this aid in the court having juvenile jurisdiction. This function is primarily administrative and not judicial, and logically it should be vested in a properly equipped public department rather than in a court. Here again local conditions may modify this generalization.

[11] For example, New York and Ohio legislation of 1925 (N. Y., act of Apr. 1, 1925, ch. 227, Laws of 1925, pp. 461–470; Ohio, act of Apr. 6, 1925, Laws of 1925, pp. 106–107, Code, 1930, secs. 7803, 7803-1).

CONCLUSIONS

In this examination of the child, the family, and the court certain facts have been set forth and certain opinions of the writers based upon these facts expressed. The problem is extremely complicated, and often the same set of facts may be interpreted in different ways. The general conclusions growing out of the study, as viewed by those who have had it in charge, may be stated as follows:

1. In considering the attitude of the law toward domestic relations, two factors must be kept constantly in mind: First, that law is a process of social engineering, that the organization of the society with which it deals is changing, and that it must discover and perfect new tools to fulfill its functions; second, that it is necessary to ascertain and deal with the facts, that sentimentalism is as dangerous as ignorance, and that changes in legal processes should be conditioned upon practicability.

2. Great need exists for extending the new judicial technique as rapidly as possible to matters bearing upon family relations that come within the scope of this report. This technique includes informal adjustment of cases not requiring official court action, thorough social investigation, physical and psychiatric examinations when necessary, informal hearings conducted with a minimum of publicity, and constructive supervision of probationers. Without doubt the ideals of justice can be achieved more nearly by these methods properly administered than by wholly legalistic methods of dealing with these cases.

3. Because of variation in local conditions a nation-wide formula for the adjustment of family problems coming before the courts is impossible. Wide differences exist not only in constitutional provisions and court systems but also in the degree of public interest in a social approach to legal problems involving child welfare and family life. Nevertheless, efforts of all interested groups should be directed toward the establishment and maintenance of tribunals that will have broad powers to deal with family problems.

4. The proper treatment of children's cases must be assured. If the resources of a community are inadequate to meet the needs discovered in day-by-day contact with juvenile problems it is the duty of the judge and executive officers of the staff to call public attention to the deficiencies disclosed and to cooperate with other agencies in obtaining the facilities required. The juvenile court requires continuing study, constructive criticism, and constant support by the public, whether it continues to exist as a separate court or becomes part of a court of broader jurisdiction. In general, where juvenile courts have been established they should be brought to a high standard of efficiency before an attempt is made to extend their jurisdiction further. It may be, however, that in a given situation it would be easier to obtain

adequate administrative machinery for the juvenile court if it were absorbed into a new court with broad jurisdiction, but the plan for administration should always be worked out carefully in advance.

5. The new judicial technique seems particularly applicable to nonsupport and desertion, the support of children born out of wedlock,[1] and certain offenses against children, especially contributing to dependency and delinquency. Some of the new methods, especially investigation, should be extended also to cases of adoption, guardianship of the person of children, and commitment of mentally defective children.

Divorce cases present special problems. Only a minority of divorce cases (somewhat more than one-third) involve children. Where children are concerned three questions must be decided: Severance of marital relationships, custody of children, and alimony.

The problem of ascertaining the real causes of marital difficulties and of adjusting them without resort to divorce procedure is of the most delicate nature, and at least under present conditions it is not one which courts are equipped or can reasonably be expected to become equipped to solve. The question whether or not a divorce should be granted is governed by well-defined rules of substantive law, and the new methods of procedure developed in juvenile courts do not apply. Moreover, the addition of divorce jurisdiction to the family court tends to overload it with cases not involving children.

Alimony and custody are subject to the continuing jurisdiction of the court, and the new technique of investigation and supervision is required in order to safeguard the interests involved. The possibility of vesting in the juvenile or family court jurisdiction as to divorce cases involving children, or as to custody of children and alimony for the support of children, merits careful study and experimentation.

6. Depending upon local conditions, social treatment of the cases mentioned may be developed in one unified court having also juvenile jurisdiction, in one court with separate branches for juvenile and domestic-relations work, or in separate juvenile and domestic-relations courts. Unified jurisdiction is desirable when it can be obtained without the sacrifice of more important ends.

7. Wherever jurisdiction over domestic-relations cases can be centered in one court by some working agreement on the part of the several judges such action appears to be more desirable than appeal to a legislative body, provided an adequate social-service staff can be maintained. This plan lacks the dramatic quality of the establishment of a new court, but it has the advantage of ease of accomplishment and flexibility.

[1] Adjustment without official court hearing should not be permitted in illegitimacy cases unless paternity is acknowledged and the settlement approved by the court as making adequate provision for the child.

8. Attempts to obtain the passage of legislation providing for the establishment of family courts or courts of domestic relations invariably should be preceded by careful study of the constitutional and statutory provisions of the State regarding courts and court systems, study of existing methods of dealing with juvenile cases and adult cases involving family problems in the locality which the proposed court would serve, and education of the public as to the need for socialized treatment of juvenile and family problems, its cost and its value.

9. Whatever jurisdiction is vested in a juvenile court, a family court, or a court of domestic relations, the following conditions are essential if it is to develop into an efficient instrument of social justice:

(*a*) Freedom from political influence and selection of judges and probation staff based on qualifications for the work to be performed.

(*b*) Ample financial support, permitting the employment at adequate salaries of a staff sufficiently large to render all the service required in each case.

(*c*) Recognition of the fact that the socialized treatment which the court is intended to give can be performed only by men and women fitted by nature, education, and experience to carry on the delicate tasks intrusted to them. The services of the social case worker, the physician, the psychologist, and the psychiatrist, all are necessary to the proper development of this new legal institution.

10. To supplement the work of the new courts and also to render services in courts organized along the old lines, pending the extension of the new technique, the work of legal-aid bureaus and other social agencies should be strengthened and extended.[2] The staffs of these organizations should have a proper understanding of the functions and methods of the new courts and should maintain close cooperation with them.

A valuable contribution could be made toward the understanding and solution of marital difficulties and other domestic-relations problems if funds were made available for the development in selected communities of domestic-relations clinics, staffed by psychiatrists, psychologists, and social investigators. These clinics should be available to any person desiring help in adjusting troubles growing out of the marital relation.

11. Finally, there emerge from this study the significant facts of overlapping jurisdictions, inadequacy of treatment, and other failures of law to meet the family problems coming within its scope. Public responsibility for the correction of these conditions must be fulfilled, though the types of organization selected for dealing with them may vary.

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[2] See Report of Joint Committee for the Study of Legal Aid, by the Association of the Bar of the City of New York and Welfare Council of New York City (Brooklyn, 1928), and Growth of Legal Aid Work in the United States.

Appendix A.—FAMILY COURTS AND COURTS OF DOMESTIC RELATIONS IN THE UNITED STATES

EXCLUSIVE OF JUVENILE COURTS OF BROAD JURISDICTION

State and Territory, and name of court	Legislation authorizing court	Date of establishment of court	Type of court	Territory covered by court	Jurisdiction conferred by law or rule of court
Alabama:[1]					
Juvenile and domestic-relations court of Jefferson County.	Acts of 1927, No. 225, amended by Acts of 1931, No. 451.	[2] 1923	Independent	Jefferson County (includes city of Birmingham).	Delinquent, dependent, neglected, and mentally defective children; contributing to delinquency or dependency; desertion or nonsupport; child-labor and school-attendance case assault and battery on husband, wife, or children.
Juvenile and domestic-relations court of Montgomery County.	Acts of 1927, No. 201, amended by Acts of 1931, No. 70.	[2] 1927	do	Montgomery County (includes city of Montgomery).	Delinquent, dependent, neglected, and mentally defective children; contributing to delinquency or dependency; desertion or nonsupport.
Hawaii:					
Division of domestic relations, first circuit court of Hawaii.	Laws of 1921, ch. 183 (Rev. Laws 1925, secs. 2236, 2237).	1921	Branch of circuit court.	Honolulu County (includes city of Honolulu).	Delinquent and dependent children; contributing to delinquency or dependency; desertion or nonsupport; bastardy; divorce, separation, separate maintenance, annulment of marriage; guardianship.
Illinois:					
Domestic-relations branch of the municipal court of Chicago.		1911	Branch of municipal court.	City of Chicago	Contributing to delinquency or dependency; desertion or nonsupport; establishment of paternity; misdemeanor offenses against minors; certain sex offenses.
Iowa:					
Juvenile court and court of domestic relations of Polk County.	Code 1931, ch. 179	[2] 1924	Branch of district court.[3]	Polk County (includes city of Des Moines).	Delinquent, dependent, neglected, and mentally defective children; contributing to delinquency or dependency; divorce; guardianship; adoption; mothers' aid.
Massachusetts:					
Municipal court of Boston, domestic-relations sessions.		1912	Branch of municipal court.	Central district of Boston (10 wards).	Stubborn children 17 to 21 years of age; desertion or nonsupport; assault and battery on husband, wife, or children; establishment of paternity; school-attendance cases.
District court of Springfield, juvenile and domestic-relations sessions.		1914	do	City of Springfield, also West Springfield and 5 other towns.	Delinquent, neglected, and wayward children; stubborn children under 21 years of age; contributing to delinquency; desertion or nonsupport; assault and battery and drunkenness involving husband and wife or children; establishment of paternity; school-attendance cases.

[1] An Alabama law of 1931 (No. 401) creating a court of domestic relations for Mobile County was held unconstitutional. See footnote 23, p. 17.
[2] Formerly a juvenile court.
[3] The juvenile court, although technically an independent court, is in fact a branch of the district court, presided over by district-court judges.

FAMILY COURTS AND COURTS OF DOMESTIC RELATIONS IN THE UNITED STATES—Continued

State and Territory, and name of court	Legislation authorizing court	Date of establishment of court	Type of court	Territory covered by court	Jurisdiction conferred by law or rule of court
Missouri:					
Court of domestic relations of St. Louis.	Laws of 1921, p. 225 (Supp. 1927, sec. 2634*a*).	1921	Branch of circuit court.	City of St. Louis	Delinquent, neglected, and mentally defective children; certain offenses of minors over 17; adoption; divorce, separate maintenance, annulment of marriage; civil actions relating to care, custody, or control of children not connected or associated with divorce or separate maintenance; child-labor and school-attendance cases.
Nebraska:					
Juvenile court and court of domestic relations of Douglas County.		1921	Branch of district court.	Douglas County (includes city of Omaha).	Delinquent, neglected, dependent, and mentally defective children; desertion or nonsupport; divorce, separate maintenance custody of children involved in divorce; mothers' aid.
New Jersey:					
Family court of Newark	Laws of 1921, ch. 327, amended by Laws of 1924, ch. 252 (Cum. Supp. 1911–1924, secs. 160–213).	1921	Independent	City of Newark	Contributing to delinquency or dependency; desertion or nonsupport; misdemeanor offenses against children; preliminary hearing of assault and battery involving husband and wife; fornication and adultery in cases in which indictment and jury trial are waived; establishment of paternity
Juvenile and domestic-relations courts throughout the State.	Laws of 1929, ch. 157	1929	Independent	Each county in State (2 or more counties may combine after special election).	Delinquent, dependent, neglected, mentally defective, and truant children; contributing to delinquency or dependency; desertion or nonsupport; establishment of paternity; school-attendance cases; mothers' aid.
New York:					
Domestic-relations court of the city of New York.	Laws of 1933, ch. 482	[4] 1933	do	The 5 boroughs of Greater New York.	Delinquent, neglected, and mentally defective children, also contributing to the delinquency or dependency of such children and children held as material witnesses and their adoption and guardianship; physically handicapped minors; truants; wayward minors; desertion or nonsupport; misdemeanor offenses against children; orders of protection (in effect limited separation) where children are involved.
Domestic-relations court of Buffalo.	Laws of 1924, ch. 424	[5] 1910	Branch of city court.	City of Buffalo	Wayward minors 16 to 21 years of age; desertion or nonsupport; disorderly persons; all criminal business related to domestic relations or family affairs.

North Carolina:[6]					
Domestic-relations court of Mecklenburg County.	Laws of 1929, ch. 343	1929	Independent	Mecklenburg County (includes city of Charlotte).	Delinquent, dependent, and neglected children; mentally defective children who are delinquent, dependent, or neglected; contributing to delinquency or dependency; misdemeanor offenses against children; desertion or nonsupport; establishment of paternity; school-attendance cases; also preliminary investigation and recommendation in adoption cases and in divorce cases involving children.
Ohio:					
Franklin County court of common pleas, division of domestic relations.	Laws of 1927, p. 58 (Code 1930, sec. 1352-7).	1929	Branch of court of common pleas.	Franklin County (includes city of Columbus).	Delinquent, neglected, dependent, and crippled children; mentally defective children who are delinquent, dependent, or neglected; contributing to delinquency or dependency; desertion or nonsupport; misdemeanor offenses against children; establishment of paternity; divorce; child-labor and school-attendance cases; mothers' aid. (The jurisdiction in these 7 Ohio courts is the same except that divorce is not specifically granted to the Summit County division of domestic relations but is assigned to this division by the court of common pleas; the Lucas County division of domestic relations has exclusive jurisdiction over bastardy proceedings; and the Montgomery County division of domestic relations has concurrent jurisdiction over all criminal matters.)
Hamilton County court of common pleas, division of domestic relations, juvenile court, and marital relations.	Laws of 1914, first special session, p. 176 (Code 1930, sec. 1639), amended by Laws of 1931, p. 50.	1914	do	Hamilton County (includes city of Cincinnati).	
Lucas County court of common pleas, division of domestic relations.	Laws of 1923, p. 157 (Code 1930, sec. 1532-6).	1924	do	Lucas County (includes city of Toledo).	
Mahoning County court of common pleas, division of domestic relations.	Laws of 1917, p. 721 (Code 1930, sec. 1532-4).	1918	do	Mahoning County (includes city of Youngstown).	
Montgomery County court of common pleas, division of domestic relations.	Laws of 1915, p. 424 (Code 1930, sec. 1532-1).	1917	do	Montgomery County (includes city of Dayton).	
Stark County court of common pleas, division of domestic relations.	Laws of 1927, p. 95 (Code 1930, sec. 1532-8).	1929	do	Stark County (includes city of Canton).	
Summit County court of common pleas, division of domestic relations.	Laws of 1917, p. 703 (Code 1930, sec. 1532-5).	1919	do	Summit County (includes city of Akron).	
Oklahoma[7]					
Oregon:					
Department of domestic relations in the circuit court for Multnomah County.	Code 1930, secs. 28-845 through 28-855, 33-601 through 33-616.	[8] 1929	Branch of circuit court.	Multnomah County (includes city of Portland).	Delinquent, neglected, dependent, and mentally defective children; contributing to delinquency or dependency; nonsupport; adoption; divorce; provision of medical and surgical treatment for sick or deformed indigent children.

[6] Formerly the independent children's court of New York City and the New York City family courts (branches of the magistrates' courts). See footnote 7, p. 33.
[5] Established by rule of court in 1910.
[6] A law of 1931 authorized a domestic-relations court in Forsyth County, N. C., which includes the city of Winston-Salem, but no such court had been established by 1933. See footnote 15, p. 15.
[7] A law of 1925 (ch. 128) applicable to Oklahoma and Tulsa Counties, Okla., authorized the creation of family courts, but no such courts had been established by 1933. See footnote 23, p. 17.
[8] Formerly an independent court of domestic relations. See p. 15.

FAMILY COURTS AND COURTS OF DOMESTIC RELATIONS IN THE UNITED STATES—Continued

State and Territory, and name of court	Legislation authorizing court	Date of establishment of court	Type of court	Territory covered by court	Jurisdiction conferred by law or rule of court
Pennsylvania:					
Domestic-relations division of the municipal court of Philadelphia.	----------	1914	Branch of municipal court.	City of Philadelphia.	Desertion or nonsupport.
Tennessee [9]	----------	----------	----------	----------	
Virginia:					
Juvenile and domestic-relations courts throughout the State.	Laws of 1922, chs. 481, 482, 483, (Code 1924, secs. 1945, 1953-a).	[10] 1922	Independent	Each county and each city (may combine by special agreement).	Delinquent, dependent, neglected, and mentally defective children; contributing to delinquency or dependency; desertion or nonsupport; misdemeanor offenses against children; misdemeanor offenses of one member of family against another; persons who knowingly contribute to marital disruption of home; child-labor and school-attendance cases.
West Virginia: [11]					
Domestic-relations court of Cabell County.	Acts of 1921, ch. 168	1921	do	Cabell County (includes city of Huntington).	Delinquent, dependent, neglected, and mentally defective children; contributing to delinquency or dependency; desertion or nonsupport; misdemeanor offenses against children; divorce, separate maintenance, annulment of marriage; adoption; school-attendance cases.

[9] A juvenile and domestic-relations court was authorized in Hamilton County, Tenn. (which includes the city of Chattanooga), by a law of 1929, which was declared unconstitutional in 1930. See footnote 14, p. 15.

[10] Such courts were established in Norfolk and Richmond in 1915 under a Virginia law of 1914 (ch. 57).

[11] A domestic-relations court was established in Monongalia County, W. Va., in 1923 and went out of existence Jan. 1, 1929, in accordance with a law of 1927. See footnote 15, p. 15.

Appendix B.—STUDY OF FAMILIES DEALT WITH IN JUVENILE AND DOMESTIC-RELATIONS CASES IN HAMILTON COUNTY, OHIO, AND PHILADELPHIA, PA.

A statistical study was made by the United States Children's Bureau in Hamilton County, Ohio (in which the city of Cincinnati is situated), in regard to the families dealt with in one year in juvenile and domestic-relations cases by the courts and the Ohio Humane Society, which gives the courts considerable assistance in dealing with family problems. The year chosen for the study was 1923. A similar study was made of the families dealt with by the municipal court of Philadelphia, Pa., in a single month—October, 1923—and of a group of divorce cases dealt with by the court of common pleas. The number of juvenile and domestic-relations cases dealt with in one month in the Philadelphia municipal court is larger than the yearly total in Hamilton County. (For the method of the study and a summary of the findings see p. 26 and for the jurisdiction of the courts see Appendix A, p. 67.)

FAMILIES DEALT WITH IN JUVENILE AND DOMESTIC-RELATIONS CASES IN HAMILTON COUNTY, OHIO

NUMBER OF FAMILIES DEALT WITH AND TYPES OF CASES

In 1923 the family court, the probate court, and the humane society (with or without court action) dealt with 5,286 families in cases of the types included in the study. These families represented 4 per cent of the 129,020 families in Hamilton County as enumerated in the 1920 census. An additional group of 359 families, with which the only contact during 1923 consisted in the payment of a support order through the cashier of the family court, were not included in the statistical study because of the lack of complete information concerning them. If the families with which payment of support orders was the only contact are included with the 5,286 families, the total dealt with (5,645), is somewhat more than 4 per cent of the number of families enumerated in the census.[1]

The general types of cases in which the 5,286 families were dealt with by the family court, the probate court, and the humane society (with or without court action in the municipal or other court) were as follows:

1. Juvenile cases (2,699), including delinquency, mothers' aid, dependency or neglect, adoption, guardianship, feeble-mindedness or epilepsy, crippled children.

[1] Fourteenth Census of the United States, 1920, vol. 3, Population, pp. 11, 778. Washington, 1922. The census, however, in 1920 defined a family as "a group of persons, whether related by blood or not, who live together as one household, usually sharing the same table." One person living alone was thus counted as a family, and the occupants of a hotel or institution, however numerous, were counted as a single family. The 1930 census affords information on number of private families, excluding institutions, hotels, boarding houses, and other quasi-family groups. Assuming that there had been no actual change in size of family in the 10-year period, it is estimated that the number of private families in Hamilton County in 1920 was 132,282. On this basis the percentage of the total number of families represented by the families included in the study would still have been 4. In the present study "family" was defined as follows: A unit consisting of father, mother, and minor child or children, or one parent and child or children, or prospective mother (if living away from her parental home) and her unborn child. Accordingly, groups consisting of more than one such unit, each maintaining a separate home and dealt with as a separate family, were entered on two schedules as two families. If the two units were dealt with as one—for example, if a married daughter and her child lived with her parents—they were counted as one unit. Adopted and foster children but not grandchildren were included in the term "children." The term "families dealt with" therefore includes any family thus defined with which there was any contact (other than mere payment of support order) during the specified period in a case coming under one or more of the following heads: Delinquency; dependency or neglect; mothers' aid; desertion or nonsupport; divorce; support of illegitimate child; other domestic-relations cases (as quarreling, abuse, unfaithfulness); offenses against children; school-excuse and employment-certificate cases; adoption; guardianship of the person of minors; commitment of feeble-minded or epileptic children. Families of which any member was under supervision in cases of these types were included whether or not the family had been dealt with on new charges or complaints during the period covered. Desertion and nonsupport cases not involving children were not included unless the wife was known to be pregnant. Divorce cases not involving minor children were not included, and 93 families were excluded because of uncertainty as to whether any of the children was under the age of 21 years. Of the 359 families with which the only contact was payment of a support order, 258 were receiving payments in cases of divorce and alimony, 92 in cases of nonsupport or desertion, 7 in both divorce and nonsupport cases, and 2 in illegitimacy cases.

2. Domestic-relations cases (2,210), including desertion or non-support, contributing to dependency, divorce cases involving children, support of illegitimate children, any other case involving domestic relations.

3. Juvenile cases and domestic-relations cases (256), including combinations of the types listed in paragraphs 1 and 2.

4. Offenses against children (102), including cases of offenses against children alone (64), and cases in which families dealt with in other cases were involved (38). Cases of contributing to delinquency are included here.

5. School-excuse and employment-certificate cases (19), including families dealt with in cases of other types also (10).

DISTRIBUTION OF CASES AMONG AGENCIES DEALING WITH THE FAMILIES

The family court dealt with 3,574 families (68 per cent of all the families in this county included in the study). Of these families, 350 were known also to other courts or to the Ohio Humane Society.

The humane society dealt with 1,638 families, of which 1,116 were handled by that organization without reference to courts, 247 were dealt with by the humane society and the municipal court (57 also by the family court), 245 by the humane society and the family court (8 by other courts also), and 30 by the humane society and other courts.

The probate court dealt with 432 families, of which 56 were known to the family court or to the humane society or to both.

Of the 5,286 families 4,906 (93 per cent) were dealt with by one court or by the humane society alone or with the municipal court and 380 were dealt with by more than one court or by the humane society and a court other than the municipal court.

Table 1 shows the agencies dealing with the family and the general types of cases.

TABLE 1.—*General type of case; families dealt with in juvenile and domestic-relations cases by one or more of specified agencies in 1923, Hamilton County*

General type of case	Families dealt with												
		By 1 court or by humane society alone or with municipal court					By more than 1 court or by humane society with 1 or more courts other than municipal court						
				Humane society				Family court and—					
								Humane society					Humane society and probate or other court[1]
	Total	Total	Family court	Alone	With municipal court	Probate court	Total	Alone	With municipal court	With probate or other court	Probate court	Other court	
Total	5,286	4,906	3,224	1,116	190	376	380	237	57	8	42	6	30
Juvenile cases	2,699	2,617	2,065	176	----	376	82	34	------	------	40	4	4
Domestic-relations cases	2,210	2,043	986	883	174	----	167	115	31	2	------	------	19
Juvenile cases and domestic-relations cases	256	136	67	56	13	----	120	84	22	5	2	------	7
Offenses against children[2]	102	93	89	1	3	----	9	3	3	1	------	2	------
School-excuse and employment-certificate cases[3]	19	17	17	------	----	----	2	1	1	------	------	------	------

[1] Includes cases in municipal court also.

[2] Includes 34 also dealt with in juvenile cases, 3 dealt with in domestic-relations cases, and 1 dealt with in a juvenile case and a domestic-relations case.

[3] Includes 7 also dealt with in juvenile cases, 1 dealt with in a domestic-relations case, and 2 dealt with in a juvenile case and a domestic-relations case.

Both the family court and the humane society were dealing with dependency and neglect cases, the family court alone dealing with only half the families known in such cases and not in cases of other types.

It appeared to be the policy of the court and the social agencies to keep at a minimum the number of dependency cases referred for court action. The Cincinnati Associated Charities rarely referred a dependency case to the family court, and other agencies dealing with dependent families seldom referred such cases.

Of the families known only in desertion or nonsupport cases, 86 per cent were dealt with by the humane society alone or by courts other than the family court, and 90 per cent of the families known only in illegitimacy cases were so dealt with. The family court dealt with all the families known only in divorce cases and with 60 per cent of the families dealt with in family-relationship cases such as quarreling or abuse. All but 2 of the 64 families known only in cases of offenses against children were dealt with by the family court alone.

Table 2 shows the type of case and the contact of the family court and the humane society with the families dealt with in Hamilton County.

TABLE 2.—*Type of case; families dealt with in juvenile and domestic-relations cases by the family court, by the humane society, and by both agencies in 1923, Hamilton County*

Type of case	Families dealt with							
	Total	By family court [1]		By humane society [2]		By family court and humane society [1]	
		Number	Per cent	Number	Per cent	Number	Per cent
Total	[3] 4,910	3,272	67	1,336	27	302	6
Juvenile cases	2,323	2,109	91	180	8	34	1
Delinquency	1,221	1,218	99	3	(4)		
Dependency or neglect	395	199	51	173	44	23	6
Mothers' aid	613	613	100				
Crippled child	4	4	(5)				
More than 1 type	90	75	83	4	5	11	12
Domestic-relations cases	2,210	986	45	1,076	49	148	7
Desertion or nonsupport	954	116	12	817	86	21	2
Divorce	688	688	100				
Support of illegitimate child	155	13	8	140	90	2	1
Quarreling, abuse, or other domestic trouble	174	104	60	66	38	4	2
Desertion or nonsupport and divorce	141	39	27			105	73
Desertion or nonsupport and other cases	65	6	9	53	82	6	9
Divorce and other cases	30	20	(5)			10	(5)
Juvenile cases and domestic-relations cases	256	69	27	76	30	111	43
Offenses against children	102	91	89	4	4	7	7
Alone	64	62	97	1	2	1	2
With other cases	38	29	(5)	3	(5)	6	(5)
School-excuse and employment-certificate cases	19	17	(5)			2	(5)

[1] With or without other courts.
[2] With or without courts other than the family court.
[3] Excludes 376 families dealt with by the probate court only.
[4] Less than 1 per cent.
[5] Not shown because number of families was less than 50.

On December 31, 1923, the family court or the humane society had 1,358 of the 5,286 families included in the study under supervision. Of these families 801 (59 per cent) were supervised by the probation department of the family court, 550 by the humane society, and 7 by both organizations.

It is evident that the comprehensive jurisdiction conferred by law on the family court of Hamilton County (see Appendix A, p. 69) was being only partly exercised in 1923, and that in dependency cases and domestic-relations cases other than divorce much still remained to be accomplished if the degree of consolidation which family courts are designed to secure was to become a reality.

FAMILIES WITH PREVIOUS COURT AND HUMANE-SOCIETY RECORDS

Table 3 shows the agency dealing with the family in 1923 and the court or humane-society record of the family before that year.

Information concerning court or humane-society record prior to 1923 was obtained for all families (except the 376 dealt with only by the probate court) through the case histories of the organizations dealing with the families in 1923. As the families known to the humane society in 1923 were not cleared through the family-court records for cases prior to 1923, nor the reverse process followed, it is probable that the information on previous court record is not entirely complete. If the case dealt with in 1923 had been carried over from the previous year, it was not counted as a previous record. For example, dependency cases in which the children had been temporarily committed to institutions before 1923 and recommitted in 1923 were considered pending cases. Courts outside the county were included if noted in the case history.

TABLE 3.—*Previous court or humane-society record; families dealt with in juvenile and domestic-relations cases by one or more of specified agencies in 1923, Hamilton County*

Court or humane-society record of family prior to 1923 [1]	Families dealt with											
	Total	By family court or by humane society alone or with municipal court				By more than 1 court or by humane society with 1 or more courts other than municipal court						
				Humane society			Family court and—					
		Total	Family court	Alone	With municipal court	Total	Humane society			Probate court	Other court	Humane society and probate or other court [2]
							Alone	With municipal court	With probate or other court			
Total	[3] 4,910	4,530	3,224	1,116	190	380	237	57	8	42	6	30
Previous court record	1,541	1,326	879	367	80	215	135	27	8	23	2	20
1 court or humane society	1,349	1,207	839	304	64	142	86	21	2	21	------	12
Family court	907	854	819	32	3	53	26	4	1	21	------	1
Humane society	405	318	3	255	60	87	59	16	1	------	------	11
Alone	246	193	2	163	28	53	35	8	1	------	------	9
With municipal court	159	125	1	92	32	34	24	8	------	------	------	2
Other court or court outside county	37	35	17	17	1	2	1	1	------	------	------	------
More than 1 court, or humane society with specified courts	178	107	35	58	14	71	49	6	6	2	2	6
Family court with other courts	20	15	15	------	------	5	------	1	1	2	1	------
Humane society with—												
Family court	54	28	1	23	4	26	23	2	------	------	1	------
Family court and municipal court	58	31	4	21	6	27	20	2	4	------	------	1
Family court and other courts	2	------	------	------	------	2	1	------	------	------	------	1
Other courts	44	33	15	14	4	11	5	1	1	------	------	4
Court not reported	14	12	5	5	2	2	------	------	------	------	------	2
No previous court record reported	3,369	3,204	2,345	749	110	165	102	30	------	19	4	10

[1] Not including cases carried over into 1923 from previous year.
[2] Includes cases in municipal court also.
[3] Excludes 376 families dealt with by the probate court only.

Thirty-one per cent of the 4,910 families dealt with in 1923 by the family court or humane society or both were found to have been known previously to courts or to the humane society in cases of the types included in the study.

Of the families known in 1923 to the family court alone, 27 per cent had previous court or humane-society records. The proportion with previous records was somewhat higher for those dealt with in 1923 by the humane society, 34 per cent having such records. In each group the percentage with a previous record in the same organization was far higher than the percentage with a previous record in another organization. Of the families known in 1923 to the family court only, 25 per cent had previous records with the same organization alone and only 2 per cent with another organization. The corresponding percentages for families known only to the humane society or to that agency and the municipal court in 1923 were 24 known to the same organization only and 10 known to other courts. More than half the families (57 per cent) dealt with in 1923 by more than one court or by the humane society and a court other than the municipal court had records prior to 1923.

Table 4 shows the number of families dealt with in cases of specified types in 1923 and the number and percentage that had previous court records.

TABLE 4.—*Type of case and previous court or humane-society record; families dealt with in juvenile and domestic-relations cases in 1923, Hamilton County*

Type of case	Families dealt with			
	Total	Having previous court or humane society record		No previous court or humane-society record reported
		Number	Per cent	
Total	[1] 4,910	1,541	31	3,369
Juvenile cases	2,323	625	27	1,698
Delinquency alone and with other cases	1,290	377	29	913
Mothers' aid alone and with other cases (except delinquency)	623	91	15	532
Dependency or neglect	395	148	37	247
Other cases and other combinations	15	9	[2]	6
Domestic-relations cases	2,210	728	33	1,482
Desertion or nonsupport with divorce	144	78	54	66
Desertion or nonsupport alone and with other cases (except divorce)	1,019	361	35	658
Divorce alone and with other cases (except desertion or nonsupport)	718	230	32	488
Support of illegitimate child	155	25	16	130
Other cases	174	34	20	140
Juvenile cases and domestic-relations cases	256	143	56	113
Offenses against children	102	34	33	68
School-excuse and employment-certificate cases	19	11	[2]	8

[1] Excludes 376 families dealt with by the probate court only.
[2] Not shown because number of families was less than 50.

Most of the families dealt with in juvenile cases in 1923 who had previous records had been known to the courts or the humane society in juvenile cases; likewise the families dealt with in domestic-relations cases had been known previously chiefly in domestic-relations cases. Of the families known only in juvenile cases in 1923, however, 7 per cent had been known previously in domestic-relations cases alone or in cases of other types also. The same proportion (7 per cent) of families dealt with only in domestic-relations cases in 1923 had been previously dealt with in juvenile cases. More than half the families dealt with in both juvenile cases and domestic-relations cases in 1923 had been dealt with previously in one or both of these types of cases. (Table 5.)

TABLE 5.—*General type of case and type of previous court or humane-society record; families dealt with in juvenile and domestic-relations cases in 1923, Hamilton County*

General type of case	Families dealt with						
	Total	Having previous court or humane-society record prior to 1923					No previous court or humane-society record reported
		Total	Juvenile cases	Domestic-relations cases	Juvenile cases and domestic-relations cases	Offenses against children	
Total	[1] 4,910	1,541	576	699	225	41	3,369
Juvenile cases	2,323	625	446	73	86	20	1,698
Domestic-relations cases	2,210	728	67	566	80	15	1,482
Juvenile cases and domestic-relations cases	256	143	31	55	53	4	113
Offenses against children	102	34	23	4	5	2	68
School-excuse and employment-certificate cases	19	11	9	1	1		8

[1] Excludes 376 cases dealt with by the probate court only.

The number of families dealt with in divorce cases during 1923 (not including those known in juvenile cases as well) was 862, many of them also being dealt with in domestic-relations cases of other types. Six per cent of these families had been known previously in juvenile cases (offenses against children in combination with juvenile cases included), 25 per cent in domestic-relations cases (11 per cent in cases of desertion or nonsupport), and 5 per cent in both juvenile and domestic-relations cases. Fourteen per cent of the families had been involved in a divorce proceeding prior to that pending in 1923.

Of the 1,163 families dealt with in 1923 in desertion or nonsupport cases, alone or in combination with domestic-relations cases of other types, 2 per cent had been dealt with previously in juvenile cases, 32 per cent in domestic-relations cases (8 per cent in divorce cases), and 4 per cent in both juvenile cases and domestic-relations cases.

INTERRELATION OF CASES IN THE YEAR COVERED BY THE STUDY

One-eighth of the 5,286 families (13 per cent) were dealt with in more than one type of case during 1923.

Table 6 shows the number of families appearing before the courts or the humane society in specified types of juvenile and domestic-relations cases and also dealt with in other cases of these types within the year.

Among the juvenile cases dependency or neglect was most likely to occur in combination with other types of cases, 41 per cent of the families known in dependency or neglect cases being also known in cases of other types, usually domestic-relations cases. Almost one-third (31 per cent) of the families dealt with in cases of feeble-mindedness or epilepsy were also dealt with in cases of other types, usually juvenile cases. Among the families dealt with in cases of desertion or nonsupport 28 per cent were also dealt with in cases of other types, for the most part either juvenile cases or divorce cases; and almost as high a percentage (26) of the families dealt with in divorce cases were known in cases of other types, chiefly cases of desertion or nonsupport. A very high percentage (45) of the families known in such domestic-relations cases as abuse, quarreling, and other domestic difficulty were dealt with also in cases of other types, chiefly desertion or nonsupport and juvenile cases. Only 13 per cent of the families dealt with in illegitimacy cases were known in cases of other types, in most instances juvenile cases. The percentage of families dealt with in cases of offenses against children known in other types of cases, chiefly delinquency cases, was 36. Ten of the 19 families dealt with in school-excuse and employment-certificate cases were dealt with in cases of other types.

TABLE 6.—*Type of case and interrelation of cases; families dealt with in juvenile and domestic-relations cases in 1923, Hamilton County*

Type of case [1]	Families dealt with													
		In 1 type of case		In more than 1 type of case										
				Total		Juvenile cases		Divorce cases						
	Total	Number	Per cent	Number	Per cent	Alone	With domestic-relations cases	Alone or with domestic-relations cases except desertion or nonsupport	With desertion or nonsupport cases	Desertion or nonsupport cases	Other domestic-relations cases	Offenses against children	School-excuse and employment-certificate cases
Juvenile cases:													
Delinquency	1,394	1,203	86	191	14	87	[2] 21	10	4	28	6	[3] 27	[4] 8
Dependency or neglect	672	395	59	277	41	66	[2] 23	27	16	91	40	[6] 12	[6] 2
Mothers' aid	651	601	92	50	8	44	----	----	----	2	1	[7] 1	[7] 2
Crippled child	7	4	----	3	----	3	----	----	----	----	----	----	----
Adoption	113	105	93	8	7	6	[8] 1	----	----	1	----	----	----
Guardianship	211	195	92	16	8	13	[8] 1	1	1	----	----	----	----
Feeble - mindedness and epilepsy	109	75	69	34	31	27	[9] 2	2	----	1	2	----	----
Domestic-relations cases:													
Desertion or nonsupport	1,329	954	72	375	28	128	[10] 31	144	----	----	65	[11] 4	[12] 3
Divorce	929	688	74	241	26	37	[13] 27	----	----	144	30	[14] 3	----
Support of illegitimate child	178	155	87	23	13	14	[15] 2	1	----	6	----	----	----
Other cases	318	174	55	144	45	42	[16] 13	29	----	59	----	1	----
Offenses against children	102	64	63	38	36	33	[17] 2	----	2	----	1	----	----
School-excuse and employment - certificate cases	19	9	----	10	----	7	[8] 2	----	----	1	----	----	----

[1] Many families were dealt with in more than 1 type of case.
[2] Includes 1 divorce, 11 desertion or nonsupport, 2 nonsupport and divorce, with or without other domestic-relations cases.
[3] Includes 5 other juvenile cases, 1 nonsupport case.
[4] Includes 2 other juvenile cases and nonsupport, 1 other juvenile case.
[5] Includes 4 other juvenile cases, 1 divorce and nonsupport.
[6] Both nonsupport.
[7] Includes 1 other juvenile case.
[8] Nonsupport.
[9] Includes 1 nonsupport case.
[10] Includes 23 divorce cases.
[11] Includes 2 divorce also, 1 divorce and juvenile case, and 1 juvenile case.
[12] Includes 2 juvenile cases.
[13] Includes 23 desertion or nonsupport cases.
[14] Includes 2 nonsupport cases, 1 nonsupport and juvenile case.
[15] 1 nonsupport, 1 divorce.
[16] Includes 7 nonsupport cases, 3 divorce, 3 nonsupport and divorce.
[17] 1 nonsupport case, 1 divorce and nonsupport.

The figures for delinquency, dependency or neglect, desertion or nonsupport, and divorce are of especial interest. Of the 1,394 families dealt with in delinquency cases, 115 (8 per cent) were dealt with in other types of juvenile cases. Seventeen families (1 per cent) were dealt with in divorce cases, 48 families (3 per cent) in cases of desertion or nonsupport, and 27 (2 per cent) in cases of offenses against children.

Among 672 families dealt with in dependency or neglect cases, 93 (14 per cent) were also dealt with in juvenile cases of other types. Forty-seven families (7 per cent) were dealt with in divorce cases, and 123 families (18 per cent) were dealt with in cases of desertion or nonsupport.

Of the 1,329 families dealt with in cases of desertion or nonsupport 163 (12 per cent) were dealt with in juvenile cases, and 170 (13 per cent) were dealt with in divorce cases.

Of the 929 families dealt with in divorce cases, 64 (7 per cent) were dealt with in juvenile cases, and 170 (18 per cent) were dealt with in cases of desertion or nonsupport.

The most overlapping appeared to exist between dependency or neglect and desertion or nonsupport, and between divorce and desertion or nonsupport.

The analysis of interrelation of cases dealt with in 1923 and of previous court records has shown that problems of divorce and desertion or nonsupport occur in the same family in many instances and that two or more problems or other types included in this study are also present in considerable numbers of families. The following case histories (in which fictitious names have been used) illustrate this overlapping of problems:

The Newton family was known to both the family court and the humane society in 1923 and had been known the previous year to the humane society. Mr. and Mrs. Newton, aged 22 and 23 years, respectively, were separated, and the three children 1, 2, and 3 years of age were with Mrs. Newton. She had come to the humane society in 1922 for assistance in obtaining support from the father, and he had complained that Mrs. Newton was neglecting the children and failing to provide a proper home for them. An agreement to support was obtained, and the humane society was supervising on January 1, 1923. On the 5th of that month complaint against the mother was again made by Mr. Newton, and the society referred the case to the family court, which placed the children under care of a private agency. A little later a divorce complaint was filed, and the divorce case was still pending at the end of the year. In August the children were living with Mrs. Newton, and the father renewed his complaint that the home was improper. The family court ordered the children placed in a foster home by the private agency to which they were committed. The Newton family was known to a family-welfare agency.

Mr. Thompson, aged 22, and Mrs. Thompson, aged 23, were separated. A young daughter was living with Mr. Thompson, and a baby 1 year of age was in a boarding home. In May, 1923, Mrs. Thompson brought a charge of nonsupport. The case was handled by the humane society and the municipal court, and Mr. Thompson was ordered to support. The following month Mrs. Thompson filed a petition for divorce in the family court, and Mr. Thompson filed a cross petition alleging neglect. A divorce was granted to the wife. In the meantime the family court had dealt unofficially with the children as dependent and had arranged for their placement in a boarding home. The Thompson family had been known to a hospital and to a child-caring agency.

Mr. and Mrs. Andrews, who were separated, had two grown daughters and three sons, James, Jonas, and Paul, aged 18, 17, and 15 years. The boys were living with their mother. In January, 1923, a divorce was pending in the family court, but no action on this case was taken during the year. In July Jonas was charged with theft and was placed on probation, to live in his own home. A few days later Mrs. Andrews brought a nonsupport charge against the father in the family court. The case was dealt with unofficially, and Mr. Andrews agreed to support. The following month the same court dealt with James on an illegitimacy complaint and James married the girl involved. Jonas had been dealt with eight times before 1923 on delinquency charges ranging from truancy to immorality and robbery, and he had been for some time in the State institution for delinquent boys. James had been dealt with five times as a delinquent prior to 1923, and he also had been committed to the State institution. Paul had been before the court three times as a delinquent and had been on probation. The family had been dealt with by the family court three times prior to 1923 on nonsupport charges. In 1920 a divorce complaint had been filed by Mrs. Andrews, charging adultery and neglect, but the case was dismissed. The Andrews family had been known to the humane society and to a free dental clinic.

In the Donnelly family the father, aged 47, had seven children by a previous marriage, the younger children aged 18, 13, and 11 years. Mrs. Donnelly had three children by a former marriage, the youngest 20 years of age. Mr. and Mrs. Donnelly were separated. Mr. Donnelly's two youngest children were living with him, and Mrs. Donnelly's oldest son was with her. Mrs. Donnelly's 23-year-old daughter had been married and divorced. In October, 1923, Mr. Donnelly filed a divorce complaint, charging neglect. The complaint was dismissed. His 20-year-old and 18-year-old daughters had been on probation to the family court since 1920, on charges of theft and immorality. They had previously been dealt with as delinquents and for a time had been in a city institution for delinquent girls. Their older brother had been on probation as a delinquent. In 1916 Mr. Donnelly had been charged with contributing to the delinquency of one of his older daughters, then 17 years of age, but the case against him had been dismissed, though the daughter had been adjudged delinquent and committed to a State institution. In 1916 Mrs. Donnelly's daughter had also been adjudged delinquent and had been placed in a city institution. Mrs. Donnelly's three children had been before the juvenile court as dependents in 1909. The family had been known to family-welfare, medical, and health agencies.

Mr. and Mrs. Otto, aged 40 and 37 years, were separated. Their one child, Kate, who was 12 years old, was living with Mrs. Otto. In October, 1923, Mrs. Otto filed a divorce petition, charging cruelty and neglect. The case was dismissed. A little later Kate ran away from home and was brought before the court as a runaway. The case was pending at the close of the year. The Otto family had been known to family-welfare and child-welfare agencies and to the humane society.

Mr. and Mrs. Raymond, both 29 years of age, were separated. Two children, Randolph, aged 10, and Elizabeth, aged 7, were living with their mother. Randolph had been born out of wedlock before his mother's marriage to Mr. Raymond. In 1921 and 1922 the humane society, the municipal court, and the court of common pleas had dealt with the family on nonsupport charges, and Mr. Raymond had been ordered to support his wife and the children. In 1923 he agreed to support, but in June he was brought again before the court of common pleas, served a jail sentence, and was released under an order to support his family. In the meantime Randolph had been arrested for vagrancy; his case was investigated by the family court, but no action was deemed necessary. Three months later Mrs. Raymond complained to the court that Randolph was stealing from persons in the home. This case also was handled unofficially. The Raymond family had been known to family-welfare, medical, and health agencies.

SOCIAL AGENCIES DEALING WITH THE FAMILIES

More than half (53 per cent) of the 5,286 families dealt with by the family court, the humane society, or the probate court in 1923 were reported by the Cincinnati social-service exchange as known to Hamilton County agencies other than these organizations, or as known to the family court or the humane society in cases of other types than those included in the study. One-third (33 per cent) were known to more than one agency. If the humane society had dealt with a family in 1923 or earlier in cases included in the study, it was not listed among the registered agencies; otherwise it was included. As the probate court did not register cases with the social-service exchange, and the family court in 1923 did not register minor behavior cases, all cases not already registered (except mothers' aid cases) were cleared through the social-service exchange as a preliminary to calculating the numbers of cases dealt with by these courts and other social agencies. The juvenile division of the family court was registered in some humane-society cases in which no detailed information was available concerning the date of the court record or the nature of the case. The court was counted as a registering agency if it was not dealing with the family in 1923 and had not dealt with

the family before 1923 in a case for which information concerning its nature was available but was entered on the records of the social-service exchange.

Table 7 shows the number and per cent distribution of families according to the number of social agencies reported as having known the families during and before 1923. Table 8 shows the types of cases in which they came to the attention of the courts and the humane society, according to the number of social agencies reported.

TABLE 7.—*Number of social agencies to which family was known; families dealt with in juvenile and domestic-relations cases in 1923, Hamilton County*

Reported number of social agencies to which family was known prior to and in 1923	Families dealt with	
	Number	Per cent distribution
Total	5,286	100
None	2,478	47
1 agency	1,083	20
2 agencies	654	12
3 agencies	401	8
4 agencies	260	5
5 agencies	163	3
6 or more agencies	247	5

TABLE 8.—*Type of case and number of social agencies to which family was known; families dealt with in juvenile and domestic-relations cases in 1923, Hamilton County*

Type of case	Families dealt with						
	Total	Reported as known to social agencies prior to and in 1923					Not reported as known to social agencies
		Total	Number of social agencies to which family was known				
			1	2 or 3	4 or 5	6 or more	
Total	5,286	2,808	1,083	1,055	423	247	2,478
Juvenile cases	2,699	1,481	533	550	241	157	1,218
Delinquency	1,203	595	239	195	107	54	608
Delinquency and other cases	87	75	14	25	17	19	12
Mothers' aid	601	416	148	169	66	33	185
Mothers' aid and other cases (except delinquency)	22	20	5	14	1	-------	2
Dependency or neglect	395	252	86	101	33	32	143
Adoption, guardianship, feeble-mindedness, epilepsy	[1] 376	109	37	40	15	17	267
Other cases and other combinations	15	14	4	6	2	2	1
Domestic-relations cases	2,210	1,051	467	402	131	51	1,159
Desertion or nonsupport	1,163	620	257	247	80	36	543
Alone	954	501	220	183	66	32	453
With divorce	144	80	28	41	8	3	64
With other cases	65	39	9	23	6	1	26
Divorce	718	256	125	91	33	7	462
Alone	688	238	118	83	30	7	450
With other cases (except nonsupport)	30	18	7	8	3	-------	12
Support of illegitimate child	155	90	41	40	8	1	65
Quarreling or other domestic trouble	82	31	17	6	5	3	51
Abuse	64	39	20	11	4	4	25
Unfaithfulness and immorality	14	8	3	4	1	-------	6
Other cases	14	7	4	3	-------	-------	7

[1] Includes 105 dealt with in adoption cases only, of which 14 were known to social agencies; 195 in guardianship cases only, of which 44 were known to social agencies; and 75 dealt with in cases of feeble-mindedness and epilepsy only, of which 51 were known to social agencies.

TABLE 8.—*Type of case and number of social agencies to which family was known; families dealt with in juvenile and domestic-relations cases in 1923, Hamilton County*—Continued

Type of case	Families dealt with						
	Total	Reported as known to social agencies prior to and in 1923					Not reported as known to social agencies
		Total	Number of social agencies to which family was known				
			1	2 or 3	4 or 5	6 or more	
Juvenile cases and domestic-relations cases	256	191	53	75	40	23	65
Dependency or neglect	174	131	44	52	25	10	43
With desertion or nonsupport	87	67	17	28	15	7	20
With divorce	26	17	7	8	1	1	9
With other cases or other combinations	61	47	20	16	9	2	14
Delinquency and domestic-relations cases	48	34	5	14	11	4	14
Other combinations	34	26	4	9	4	9	8
Offenses against children	102	67	26	20	9	12	35
Alone	64	36	14	13	4	5	28
With other cases	38	31	12	7	5	7	7
School-excuse and employment-certificate cases [1]	19	18	4	8	2	4	1

[1] With or without other cases.

More than half (55 per cent) of the families dealt with in juvenile cases, nearly half (48 per cent) of those dealt with in domestic-relations cases, three-fourths (75 per cent) of those dealt with in both juvenile cases and domestic-relations cases, and two-thirds (67 per cent) of those dealt with in cases of offenses against children were reported as known to social agencies. More than half (51 per cent) of the families dealt with in delinquency cases and nearly two-thirds (64 per cent) of those dealt with in dependency or neglect cases only were known to social agencies, not including families that were dealt with also in domestic-relations cases, cases of offenses against children, or school-excuse and employment-certificate cases. Families dealt with in adoption and guardianship cases only were known to social agencies less frequently (13 per cent and 23 per cent, respectively), but two-thirds (68 per cent) of the families dealt with in cases of feeble-mindedness and epilepsy and not in cases of other types had social-agency records. Of the families dealt with by the probate court alone nearly three-tenths (29 per cent) were known to social agencies and nearly one-fifth (19 per cent) to more than one such agency. More than half of the families dealt with in desertion or nonsupport cases (53 per cent), more than one-third of those dealt with in divorce cases (36 per cent), and almost three-fifths of those dealt with in cases for the support of children born out of wedlock (58 per cent) had social-agency records. Those dealt with in desertion or nonsupport cases do not include those also dealt with in juvenile cases, cases of offenses against children, or school-excuse and employment-certificate cases; and those dealt with in divorce cases do not include those also dealt with in cases of the types specified or in desertion or nonsupport cases.

Table 9 shows the number and percentage of families known to family-welfare agencies, medical and health agencies, and agencies dealing with delinquency, the prevention of delinquency, and the protection of children. The last group includes the Central Mental Hygiene Clinic, Big Brother and Big Sister organizations, and the Juvenile Protective League, also the humane society and the family court so far as they dealt with cases other than those included in the study.

TABLE 9.—*General type of case and number and per cent of cases known to social agencies of specified type; families dealt with in juvenile and domestic-relations cases in 1923, Hamilton County*

General type of case	Families dealt with in all cases	Families [1] dealt with who were reported as known to specified social agencies prior to and in 1923					
		Family-welfare agencies		Medical and health agencies		Agencies dealing with delinquency, prevention of delinquency, and protection of children	
		Number	Per cent	Number	Per cent	Number	Per cent
Total	5,286	1,782	34	1,609	30	829	16
Juvenile cases	2,699	1,015	38	832	31	460	17
Domestic-relations cases	2,210	579	26	615	28	275	12
Juvenile cases and domestic-relations cases	256	132	52	120	47	57	22
Offenses against children	102	44	43	33	32	29	28
School-excuse and employment-certificate cases	19	12	[2]	9	[2]	8	[2]

[1] Many families were known to more than 1 type of agency.
[2] Not shown because number of families was less than 50.

Family-welfare agencies had dealt with the most families (34 per cent); medical and health agencies were second (dealing with 30 per cent), and agencies dealing with delinquency, the prevention of delinquency, and the protection of children were third (dealing with 16 per cent). Two per cent of the families not dealt with by agencies of the types specified and a number of families known to such agencies were known to children's institutions, child-placing agencies, the department of education, and other agencies.

The individual agency registering the largest number of families in the group studied was the Associated Charities, which registered 1,207 families. The Bureau of Catholic Charities (which combines family-welfare service, a health center, institutions for children, and Big Brother and Big Sister work) was next, 561 families being reported as known to this agency. The vocational bureau and other divisions of the school department, including the attendance department and placement office, registered 453 families, and the humane society registered 401 families (in addition to families dealt with by this society in 1923 or earlier in cases of the types included in the study and entered under court record or previous court record.) Hospitals, dispensaries, and clinics, the Bureau for Prevention of Tuberculosis, and the Babies Milk Fund Association registered 1,609 families. The Children's Home, a private institution for dependent children which also places children, registered 161 families. Seventeen of these families and 91 others were registered with the Boarding Home Bureau, which was then an independent agency.[2] The Juvenile Protective Association registered 153 families, the Central Mental Hygiene Clinic (not established until January, 1923) registered 104, and the Federation of Churches (which does Big Brother and Big Sister work) registered 93.

Among the 5,286 families the number which were registered in the social-service exchange in 1923 for the first time was 1,223 (23 per cent), as compared with 2,808 (53 per cent) registered at any time. Of these 1,223 families 803 (66 per cent) had been registered with only 1 agency in 1923; 260 (21 per cent) had been registered with 2 agencies; 117 (10 per cent) had been registered with 3 agencies; and 43 (4 per cent) had been registered with 4 agencies or more.

Medical and health agencies registered 620 families in 1923; family-welfare agencies registered 403 families; and agencies dealing with delinquency, the prevention of delinquency, and the protection of children registered 270 families.

The family court depended upon social agencies for assistance in probation work to a considerable extent; both the court and the humane society frequently referred families for services of various kinds.

[2] Boarding-out work was divided later among the Children's Home, the Bureau of Catholic Charities, and the United Jewish Charities.

CHARACTERISTICS OF THE FAMILIES

Race and age of mother and age of parents.

Information concerning the race of the mother was obtained for 4,525 of the 5,286 families dealt with. The mother was white in 3,645 (81 per cent) of these families and colored in 880 families (19 per cent). The percentage of colored mothers was almost three times as high as the percentage of colored in the whole population (7 per cent in 1920).[3] The percentage of colored mothers was very low (6 and 9, respectively) in mothers' aid and divorce cases and very high in illegitimacy cases, in more than half (56 per cent) of which the mother was colored. For other cases the percentage of colored mothers ranged from 15 to 25. (Table 10.)

TABLE 10.—*Type of case and race of mother; families dealt with in juvenile and domestic-relations cases in 1923, Hamilton County*

Type of case	Families dealt with						
	Total	Race of mother reported					Race of mother not reported
		Total	White		Colored		
			Number	Per cent	Number	Per cent	
Total	5,286	4,525	3,645	81	880	19	761
Juvenile cases	2,699	2,302	1,863	81	439	19	397
Delinquency alone and with other cases	1,290	1,231	926	75	305	25	59
Mothers' aid alone and with other cases (except delinquency)	623	617	582	94	35	6	6
Dependency or neglect	395	365	288	79	77	21	30
Adoption	105						105
Guardianship	195						195
Feeble-mindedness or epilepsy	75	73	56	77	17	23	2
Other cases or other combinations	16	16	11	(1)	5	(1)	
Domestic-relations cases	2,210	1,866	1,489	80	377	20	344
Desertion or nonsupport alone and with other cases	1,163	1,050	828	79	222	21	113
Divorce alone and with other cases (except desertion or nonsupport)	718	579	524	91	55	9	139
Support of illegitimate child	155	151	67	44	84	56	4
Other domestic-relations cases	174	86	70	81	16	19	88
Juvenile cases and domestic-relations cases	256	243	200	82	43	18	13
Dependency or neglect and domestic-relations cases	174	167	142	85	25	15	7
Delinquency and domestic-relations cases	48	45	31	(1)	14	(1)	3
Other combinations	34	31	27	(1)	4	(1)	3
Offenses against children alone and with other cases	102	96	77	80	19	20	6
School-excuse and employment-certificate cases alone and with other cases	19	18	16	(1)	2	(1)	1

[1] Not shown because number of families was less than 50.

In 3,169 of the 5,286 families dealt with the mother was living and her age was ascertained. Eleven per cent of the mothers were under 21 years of age and 32 per cent were between 21 and 29 years of age. Less than one-fourth of the mothers (23 per cent) had reached the age of 40.

Table 11 shows the age of the mother in all reported cases and for four groups of cases: Dependency or neglect, mothers' aid, divorce, and desertion or nonsupport. As the mother's age was reported for less than 25 per cent of the families dealt with in delinquency cases, this group and the groups in which the numbers of cases are small are not shown separately.

[3] Fourteenth Census of the United States, 1920, vol. 3, Population, p. 778. Washington, 1922.

TABLE 11.—*Age of mother; families dealt with in all types and in selected types of juvenile and domestic-relations cases in 1923, Hamilton County*

Age of mother	Families dealt with in all cases		Families [1] dealt with in selected types of cases							
			Dependency or neglect		Mothers' aid		Divorce		Desertion or nonsupport	
	Number	Per cent distribution	Number	Per cent distribution	Number	Per cent distribution	Number	Per cent distribution	Number	Per cent distribution
Total	5,286	-------	672	-------	651	-------	929	-------	1,329	-------
Age of mother reported	3,169	100	388	100	637	100	757	100	1,109	100
Under 18 years	67	2	6	2	-------	-------	5	(2)	28	3
18 years, under 21	270	9	29	7	-------	-------	46	6	148	13
21 years, under 30	1,013	32	165	43	48	8	310	41	516	47
30 years, under 40	1,095	35	135	35	277	43	279	37	303	27
40 years, under 50	565	18	44	11	248	39	81	11	93	8
50 years or over	159	5	9	2	64	10	36	5	21	2
Age of mother not reported or mother dead	2,117	-------	284	-------	14	-------	172	-------	220	-------

[1] Many families were dealt with in more than 1 type of case. [2] Less than 1 per cent.

TABLE 12.—*Age of mother and father; families dealt with in all types and in selected types of juvenile and domestic-relations cases in 1923, Hamilton County*

Age of mother and father	Families dealt with in all cases	Families [1] dealt with in selected types of cases		
		Dependency or neglect	Divorce	Desertion or nonsupport
Total	5,286	672	929	1,329
Age of mother reported	3,169	388	757	1,109
Mother under 21 years	337	35	51	176
Father under 21 years	56	3	6	29
Father 21 years, under 30	205	18	37	127
Father 30 years and over	22	4	5	10
Father's age not reported or father dead	54	10	3	10
Mother 21 years, under 30	1,013	165	310	516
Father under 21 years	8	----------	1	4
Father 21 years, under 30	496	52	156	306
Father 30 years, under 40	351	70	130	171
Father 40 years and over	44	9	21	19
Father's age not reported or father dead	114	34	2	16
Mother 30 years, under 40	1,095	135	279	303
Father under 30 years	42	6	17	19
Father 30 years, under 40	435	63	174	167
Father 40 years and over	295	40	86	102
Father's age not reported or father dead	323	26	2	15
Mother 40 years or over	724	53	117	114
Father under 40 years	35	7	11	10
Father 40 years and over	350	31	106	95
Father's age not reported or father dead	339	15	----------	9
Age of mother not reported or mother dead	2,117	284	172	220

[1] Many families were dealt with in more than 1 type of case.

One of the striking facts brought out by the figures in Table 11 is the youth of the mothers involved in desertion or nonsupport cases. Almost one-sixth (16

per cent) were under the age of 21 years and more than three-fifths (62 per cent) were under 30. These were not childless wives but were women bringing action against their husbands for the support of themselves and their children. Almost half the mothers involved in divorce cases (48 per cent) were under the age of 30, and 7 per cent were under the age of 21. On the other hand, 91 per cent of the mothers applying for mothers' aid were 30 years of age or older.

Table 12 shows the ages of the parents in the families dealt with.

In 2 per cent of the families in which the parents were living and their ages known both the mother and the father were under 21 years of age. In 21 per cent both were 21 and under 30 years of age; in another 15 per cent the mother was 21 and under 30 and the father was 30 and under 40; thus in 36 per cent of the families the mother was between 21 and 30 and the father between 21 and 40. Families in which the mother was 30 but under 40 years of age and the father 30 or over comprised 31 per cent of the total for which age of mother and father was reported. Both parents were 21 and under 30 years of age in 17 per cent of the families dealt with in dependency or neglect cases, 21 per cent of those dealt with in divorce cases, and 29 per cent of those dealt with in desertion or nonsupport cases. The mother was of this age and the father 30 but under 40 years of age in 23 per cent of the families dealt with in dependency or neglect cases, 17 per cent of those dealt with in divorce cases, and 16 per cent of those dealt with in desertion or nonsupport cases.

Number and ages of the children.

For 4,589 families the number of minor children was reported. (Table 13.) In more than two-fifths of the families (41 per cent, including families in which there was only an unborn child) there was but one minor child. Two children were reported for 1,056 families (23 per cent), and three or more children for 1,638 families (36 per cent). Excluding unborn children, the total number of minor children in the 4,477 families who had living children was 10,681, an average of 2.4 per family.

Of the 4,508 families in which the numbers and ages of the children were reported, 112 (2 per cent) had an unborn child only, 3,197 (71 per cent) were families in which all the children were under the age of 16 years, 893 (20 per cent) were families in which some of the children were under 16 and some were between 16 and 21 years, and 306 (7 per cent) were families in which all the children were between the ages of 16 and 21 years.

TABLE 13.—*Number of minor children in family by age groups: families dealt with in juvenile and domestic-relations cases in 1923, Hamilton County*

Number of minor children in family	Families dealt with					
	Total	Ages of minor children				
		All under 16	Some under 16, some 16 but under 21	All 16 but under 21	Not reported	Child unborn
Total	5,286	3,197	893	306	778	112
Number of minor children in family reported	4,589	3,197	893	306	81	112
1 [1]	1,783	1,534	----------	234	15	----------
2	1,056	811	169	59	17	----------
3	724	447	248	12	17	----------
4	412	224	174	1	13	----------
5	248	113	126	----------	9	----------
6	133	37	91	----------	5	----------
7	68	21	44	----------	3	----------
8	33	6	25	----------	2	----------
9	14	3	11	----------	----------	----------
10	4	1	3	----------	----------	----------
11	2	----------	2	----------	----------	----------
Child unborn	112	----------	----------	----------	----------	112
Number of minor children in family not reported	697	----------	----------	----------	697	----------

[1] The number with 1 child only is probably somewhat overstated. Of the 324 families dealt with by the probate court only in which the ages of the children were reported, 234 (72 per cent) appeared to have only 1 child. The information concerning children in the families dealt with by the family court or the humane society was incomplete in a number of cases.

Table 14 shows the number of children of specified ages in the families dealt with by the courts or the humane society in cases of various types.

Of the 896 families (with minor children) dealt with in divorce cases, for which numbers and ages of children were reported, 54 per cent had children under 7 years of age and 21 per cent had children under 3 years of age. The corresponding percentages for the 1,273 families with numbers and ages of children reported which were dealt with in cases of desertion or nonsupport were 73 having children under 7 years of age and 47 having children under 3 years. Of the group of families dealt with in desertion or nonsupport cases, 18 per cent had children under 1 year of age. Of all the families included in the study for which numbers and ages of children were reported, 53 per cent had children under the age of 7 years and 28 per cent had children under the age of 3 years.

TABLE 14.—*Number of minor children in family, by age groups: families dealt with in all types and in selected types of juvenile and domestic-relations cases in 1923, Hamilton County*

Number of children of specified ages in family	Families dealt with in all cases	Families [1] dealt with in selected types of cases				
		Delinquency	Dependency or neglect	Mothers' aid	Divorce	Desertion or nonsupport
Total	5,286	1,387	672	651	929	1,329
Number of children under 21 years:						
1	1,783	243	179	37	497	551
2	1,056	180	160	159	220	324
3	724	154	108	199	107	159
4	412	105	70	101	49	112
5	248	88	35	73	20	47
6	133	54	24	35	8	18
7 or more	121	64	22	24	1	19
Unborn child only	112	4	3		9	62
Not reported	697	495	71	23	18	37
Number of children under 16 years:						
None [2]	418	133	18	1	114	71
1	1,794	256	192	89	448	573
2	1,061	170	154	202	211	323
3	606	120	96	177	79	148
4	332	82	59	87	32	98
5	177	67	30	46	9	38
6	66	25	15	15	3	10
7 or more	54	26	8	10		12
Not reported	778	508	100	24	33	56
Number of children under 7 years:						
None [2]	2,136	646	230	341	412	348
1	1,511	119	162	147	385	566
2	614	73	118	104	81	256
3	201	32	50	29	17	83
4	41	9	11	6	1	17
5	5		1			3
Not reported	778	508	100	24	33	56
Number of children under 3 years:						
None [2]	3,234	777	381	539	708	670
1	1,081	88	147	73	177	494
2	185	13	41	15	11	105
3	8	1	3			4
Not reported	778	508	100	24	33	56
Number of children under 1 year:						
None [2]	4,026	847	511	606	848	1,045
1	473	32	56	20	48	225
2	9		5	1		3
Not reported	778	508	100	24	33	56

[1] Many families were dealt with in more than 1 type of case.
[2] Includes families with no children under the age specified but with unborn children.

Composition of family and whereabouts of the children and the parents.

The number of families dealt with by the courts or the humane society in 1923, excluding those dealt with only by the probate court—concerning which information was incomplete—and those in which there was only an unborn child, was 4,718. These included unmarried mothers and their children, as well as legally constituted family groups; and adopted children were considered as own children. In 625 families (13 per cent) there were stepchildren. One-third of these families (208) included children of husband and wife and stepchildren also. (Table 15.)

In only 1,039 (28 per cent) of the 3,694 families for which whereabouts of all the living children was reported were all the children with both parents (including step-parents). In 1,933 cases (52 per cent) they were all with one parent. In 290 families (8 per cent) the children were separated, some of them being with one or both parents; and in 432 families (12 per cent) none of the children was with either parent. In only 859 families (23 per cent) were there no stepchildren and were all children living with both parents.

TABLE 15.—*Composition of family and whereabouts of children; families dealt with in juvenile and domestic-relations cases in 1923, Hamilton County*

Composition of family [1]	Families dealt with						
	Total	Whereabouts of children reported					Whereabouts of children not reported or child unborn
		Total	All with both parents	All with 1 parent	None with either parent	Separated, some with parent or parents	
Total	[2] 4,910	3,694	1,039	1,933	432	290	1,216
Composition reported—families with children	4,718	3,681	1,033	1,930	430	288	1,037
No stepchildren in family [3]	4,093	3,226	859	1,805	360	202	867
Stepchildren in family	625	455	174	125	70	86	170
Stepchildren and children of husband and wife	208	150	55	35	13	47	58
Children of husband only	96	58	19	11	23	5	38
Children of wife only	285	218	94	74	33	17	67
Children of each	36	29	6	5	1	17	7
Composition not reported	80	13	6	3	2	2	67
Child unborn	112	------	------	------	------	------	112

[1] Adopted children are considered as own children.
[2] Excludes 376 families dealt with by the probate court only.
[3] Includes unmarried mothers and their children.

Table 16 shows the composition of the families dealt with in 1923 by the family court or the humane society in relation to cases of various types. Stepchildren were reported in 21 per cent of the families dealt with in divorce cases and in 10 per cent of those dealt with in desertion or nonsupport cases. The percentage with stepchildren was higher in families dealt with in dependency and neglect cases (20) than in those dealt with in delinquency cases (15).

TABLE 16.—*Composition of family; families dealt with in all types [1] and in selected types of juvenile and domestic-relations cases in 1923, Hamilton County*

Composition of family	Families dealt with in all cases		Families [2] dealt with in selected types of cases									
			Delinquency		Dependency or neglect		Mothers' aid		Divorce		Desertion or nonsupport	
	Number	Per cent distribution	Number	Per cent distribution	Number	Per cent distribution	Number	Per cent distribution	Number	Per cent distribution	Number	Per cent distribution
Total	[1] 4,910	-----	1,387	------	672	------	651	------	929	------	1,329	-----
Composition reported—families with children	4,718	100	1,325	100	657	100	650	100	914	100	1,263	100
No stepchildren in family	4,093	87	1,127	85	523	80	639	98	724	79	1,136	90
Stepchildren in family	625	13	198	15	134	20	11	2	190	21	127	10
Composition of family not reported, or child unborn	192	-----	62	------	15	------	1	------	15	------	66	-----

[1] Excludes 376 families dealt with by the probate court only.
[2] Many families were dealt with in more than 1 type of case.

It has been noted that in 12 per cent of the families for which the whereabouts of the children was reported, none of the children was living with either parent. The percentages for the various types of cases ranged from 10 per cent in families dealt with in delinquency cases to 27 per cent in families dealt with in dependency or neglect cases. Among families dealt with in divorce cases with children whose whereabouts was reported, 16 per cent—about one family in every six—had already been so disintegrated at the time the divorce petition was filed that none of the children was living with either parent. All the children were with the mother only in 50 per cent of all the families, but in only 3 per cent were they all with the father only. The percentage in which the children were with the mother only was lowest in families dealt with in delinquency (18 per cent) and highest in those dealt with in mothers' aid cases (90 per cent).

Table 17 shows the whereabouts of children in families dealt with in 1923 by the family court or the humane society in cases of various types.

TABLE 17.—*Whereabouts of children; families dealt with in all types* [1] *and in selected types of juvenile and domestic-relations cases in 1923, Hamilton County*

Whereabouts of children	Families dealt with in all cases		Families [2] dealt with in selected types of cases									
			Delinquency		Dependency or neglect		Mothers' aid		Divorce		Desertion or non-support	
	Number	Per cent distribution	Number	Per cent distribution	Number	Per cent distribution	Number	Per cent distribution	Number	Per cent distribution	Number	Per cent distribution
Total	[1] 4,910	-----	1,387	------	672	------	651	------	929	------	1,329	-----
Families with children whose whereabouts was reported	3,694	100	770	100	559	100	603	100	680	100	1,180	100
All with both parents or step-parents	1,039	28	456	59	152	27	12	2	27	4	311	26
All with mother	1,833	50	142	18	148	26	540	90	441	65	652	55
All with father	100	3	33	4	30	5	------	------	26	4	13	1
Separated, some with parent or parents	290	8	59	8	79	14	45	7	75	11	71	6
None with either parent	432	12	80	10	150	27	6	1	111	16	133	11
Whereabouts of children not reported, or child unborn	1,216	-----	617	------	113	------	48	------	249	------	149	-----

[1] Excludes 376 families dealt with by the probate court only.
[2] Many families were dealt with in more than 1 type of case.

FAMILIES DEALT WITH BY THE PROBATE COURT

Cases of adoption.

The probate court dealt with 113 families in adoption cases in 1923. The adoption of more than one child was sought in 6 of these families. In 74 families the child or children whose adoption was sought were of legitimate birth; in 39 families the child was of illegitimate birth. Information concerning the status of the child's parents had been recorded for only 38 of the 74 families in which the children were of legitimate birth and for 23 of the 39 children born out of wedlock. In only 3 of the former families was the child known to be a full orphan; in 21 it was known that 1 parent was dead; in 9 both parents were known to be living, and in 5 families 1 parent was living and the status of the other was unknown. The mothers of 23 of the 39 children born out of wedlock were known to be living, and the status of 16 was not reported.

In 21 of the 113 families the child was a juvenile-court ward, and in 7 families the child was a ward of the court as a result of a divorce proceeding. In 65 families consent to adoption was given by a social agency, in 5 by both parents,

in 38 by 1 parent, in 4 by an individual not the parent; in 1 instance the person giving consent was not reported.[4]

In 20 families the child was under 1 year of age, in 38 the child or children were 1 year old but less than 3 years old, and in 55 families the child was 3 years of age or older.

The law specifies that no decree of adoption shall be made until the child has resided in the home of the petitioner at least six months, "unless the court for some special reason which shall be entered in the record deems it best to waive this requirement."[5] However, in 55 of the 99 families in which adoption was granted, the child had been in the adoptive home less than one year. In 42 families the child had lived in the home one year or longer, and in 2 the time in the home was not reported.

It was known that investigations had been made in respect to 57 of the 99 families in which adoption was granted. No investigation appeared to have been made in 39 instances, and in 3 it was not known whether or not there had been an investigation. Among the persons and agencies making investigations were the State department of public welfare, the Bureau of Catholic Charities, various child-placing agencies and children's institutions, probation officers, and attorneys.[6]

Petitions for adoption were granted in 99 families. In 12 families adoption cases were pending at the end of the year. In two families the disposition of the adoption cases was not reported. No petition was reported as denied.

Cases of guardianship.

The probate court dealt with 211 families in which guardianship of children was petitioned, including 208 in which guardianship of both person and estate was sought, and with 3 in which only guardianship of the person was desired. Guardianship was granted in 186 cases, 24 cases were pending at the close of the year, and the disposition of 1 case was not reported. No instance of denial of the petition for guardianship was reported. The number of children in these families whose guardianship was petitioned for was as follows:

	Number of families
Total families	211
1 child	124
2 children	47
3 children	22
4 children	9
5 children	5
6 children	3
7 children	1

Cases of mentally defective children.

Provision for mentally defective children was difficult because the State institution was overcrowded, and children had to remain on the waiting lists for extended periods. The number of families dealt with in this type of case in 1923 was 109 (98 with feeble-minded children, 10 with epileptic children, and 1 with both feeble-minded and epileptic children). The application for admission was

[4] The law requires consent to adoption as follows: (1) By the child if over 13 years of age; (2) by each of the living parents or by the mother of a child of illegitimate birth except (*a*) by one of the parents if the other has failed or refused to support the child for two consecutive years, (*b*) by the juvenile court if both the parents have failed or refused to support the child for two consecutive years, (*c*) by the parent or person to whom a juvenile court has awarded legal custody and guardianship because of dependency or because of the mental, moral, or other unfitness of one or both parents, subject to the approval of the juvenile court, (*d*) by the parent or other person awarded custody by a decree of divorce, subject to the approval of the divorce court, (*e*) by the legal guardian if the parents are dead or their residence has been unknown at least a year or if the juvenile court has deprived them of legal custody and guardianship because of their unfitness, (*f*) by an institution or agency having legally acquired custody and control of the child if the Statedepartment of public welfare has certified such institution or agency as approved. (Ohio, Code 1930, sec. 10512–11, added by Laws of 1931, p. 472.)

[5] Ohio, Code 1930, sec. 10512–20 (added by Laws of 1931, p. 475).

[6] Through its study group on adoptions the Cleveland Conference on Illegitimacy made a study of the 311 adoptions that were consummated in Cuyahoga County (in which Cleveland is situated) between July 1, 1922, and June 30, 1923. The following statement was made in an article by the chairman of the committee reporting this study: "In Ohio the intent of the law is clearly that the court shall have specific information concerning both the family and child through investigation. It was intended, although the law says 'may,' that the State board of charities [now the department of public welfare], county home, or some accredited children's agency should make the investigation and verify the allegations in the petition. However, in practice, frequently blanks are filled in by the attorney of the foster parents, some court attaché, or even not prepared at all. Only 29 reports in the 66 cases studied were found filed. In 37 cases no reports were attached to the record. Of the 29 reports 27 were by agencies, 1 by the next friend, and 1 not given." See A Study of Adoptions in Cuyahoga County, by Lawrence C. Cole (The Family, vol. 6, No. 9, p.259).

made for 1 child by 99 families, for 2 children by 9 families, and for 3 children by 1 family. More than two-thirds of the children were between the ages of 7 and 16 years. The petition was signed by the parents in the case of 86 of the 109 families, by courts in the case of 15 families, by social agencies in the case of 3 families, and by other persons or agencies in the case of 5 families.

Children from only 50 of the 109 families were admitted to institutions in 1923. In 16 families admission was applied for and in 43 the children were committed to the care of an individual or agency pending admission.

FAMILIES DEALT WITH IN JUVENILE AND DOMESTIC-RELATIONS CASES IN PHILADELPHIA, PA.

The Philadelphia study included juvenile and domestic-relations cases brought before the municipal court of Philadelphia in October, 1923, and a group of divorce cases in which there were children under 18 years of age. (These latter cases, which were dealt with by the court of common pleas, were cleared through the central registration bureau of the municipal court; see p. 93.)

NUMBER OF FAMILIES DEALT WITH AND TYPES OF CASES

In October, 1923, the municipal court dealt with 6,728 families in cases of the types included in the study. The general types of cases in which these families were dealt with were as follows:

1. Juvenile cases (2,902), including delinquency, incorrigible and runaway children 16 to 21 years of age, dependency, neglect, and cases of mentally defective children.
2. Domestic-relations cases (3,535), including desertion or nonsupport, illegitimacy, and friendly-service cases dealt with by the domestic-relations division.
3. Juvenile and domestic-relations cases (291), including combinations of the types listed in paragraphs 1 and 2.

The 6,728 families dealt with during the month of October, 1923, represent 2 per cent of the 402,946 families enumerated for Philadelphia in the 1920 census.[7]

It will be noted that cases of adoption, guardianship, and contributing to the delinquency of children and neglect of children (adult cases), which were included in the study of interrelation of cases made in Hamilton County, Ohio were not included in the study made in Philadelphia. In 1923 the juvenile division of the municipal court of Philadelphia disposed of 145 new official adult cases, holding them to the grand jury or otherwise disposing of them.

Six per cent of the 6,728 families included in the inquiry were dealt with in more than one type of case during October, 1923. Table 18 shows the number and per cent of families dealt with in each type of case that were also dealt with in cases of other types. The percentages ranged from 9 in desertion or nonsupport and delinquency to 29 in dependency or neglect cases. In the inquiry in Hamilton County, Ohio, the percentage of families dealt with in more than one type of case was 13, as has been stated, that for desertion or nonsupport cases was 28, and that for cases of dependency or neglect was 41. (See p. 76.) It must be remembered, however, that the figures for Hamilton County cover an entire year and include divorce and certain other types of cases not included in the Philadelphia study. Among the juvenile cases in Philadelphia, as in Hamilton County, dependency or neglect was found to occur most frequently in combination with cases of other types.

The numbers of families dealt with in juvenile cases, desertion or nonsupport, or illegitimacy cases in October, 1923, which had been dealt with in other types of cases included in the study at any time during the year ended October 31, 1923, were also ascertained. (Table 19.)

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[7] Fourteenth Census of the United States, 1920, vol. 3, Population, p. 864. For definition of the family in the census and as used in this study see footnote 1, p. 71. The number of families in Philadelphia in 1920 calculated on the basis of the 1930 definition of private family was 428,721, but the percentage would have remained the same. The figures given in this section refer to children under 21 years of age and (if not over 16 years) not married nor living outside the city, whereas the figures for Hamilton County, Ohio, were based on the total number of minor children whether those between 16 and 21 were married and living outside the city or not.

TABLE 18.—*Type of cases and interrelation of cases; families dealt with in juvenile and domestic-relations cases by the municipal court in October, 1923, Philadelphia*

Type of case [1]	Families dealt with														
		In 1 type of case		In more than 1 type of case											
						Juvenile cases						Desertion or nonsupport cases		Illegitimacy cases	
				Total		Alone		With desertion or nonsupport cases		With illegitimacy cases					
	Total	Number	Per cent	Number	Per cent	Number	Per cent	Number	Per cent	Number	Per cent	Number	Per cent	Number	Per cent
Juvenile cases:															
Delinquency or incorrigibility [2]	2,501	2,272	91	229	9	71	3	9	([3])	3	([3])	[4] 107	4	39	2
Dependency or neglect	727	516	71	211	29	70	10	9	1	4	1	[5] 115	16	13	2
Mentally defective children	51	41	80	10	20	5	10	----	----	1	2	4	8	----	----
Desertion or nonsupport cases	3,080	2,818	91	262	9	230	7	----	----	5	([3])	----	----	27	1
Illegitimacy cases	778	690	89	88	11	56	7	5	1	----	----	27	3	----	----

[1] Many families were dealt with in more than 1 type of case.
[2] Includes cases of incorrigible, disorderly, and runaway children 16 to 21 years of age.
[3] Less than 1 per cent.
[4] Includes 3 families also dealt with in illegitimacy cases.
[5] Includes 2 families also dealt with in illegitimacy cases.

TABLE 19.—*General type of case; families dealt with by the municipal court during October, 1923, and number and per cent dealt with in cases of other types during the year ended October 31, 1923, Philadelphia*

General type of case	Families dealt with				
	Total	In specified type of case only, during year ended Oct. 31, 1923		In cases of other types during year ended Oct. 31, 1923	
		Number	Per cent	Number	Per cent
Juvenile cases [1]	3,193	2,750	86	443	14
Desertion or nonsupport cases	3,080	2,662	86	418	14
Illegitimacy cases	778	624	80	154	20

[1] Many families were dealt with in more than 1 type of case.
[2] Includes cases of delinquency, dependency, or neglect, and mentally defective children and of incorrigible, disorderly, and runaway children 16 to 21 years of age.

DISTRIBUTION OF CASES AMONG THE DIVISIONS OF THE COURT'S PROBATION DEPARTMENT

Families dealt with by more than one division.

Cases of the types with which this study is concerned were dealt with by five divisions of the probation department (not including the medical department, which supervised persons on probation from all the divisions). These were the juvenile, domestic-relations, women's criminal, men's misdemeanants, and women's misdemeanants divisions. For the purpose of the study the two misdemeanants divisions, which handled incorrigible boys and girls, have been treated as one division. Juvenile cases (including cases of children under 16

and of incorrigible children 16 to 21 years of age) were dealt with by the juvenile and misdemeanants divisions, desertion or nonsupport cases by the domestic-relations division, and illegitimacy cases by the women's criminal division.

Of the 6,728 families, 377 (6 per cent) were dealt with by two or three divisions in October, 1923, in cases of the types included in the study. The divisions dealing with the family in that month were as follows:

	Number of families
Total families	6,728
Families dealt with by only 1 division of the court's probation department	6,351
Juvenile division	2,216
Misdemeanants division	627
Domestic-relations division	2,818
Women's criminal division	690
Families dealt with by 2 divisions	362
Juvenile and misdemeanants divisions	59
Juvenile and domestic-relations divisions	200
Juvenile and women's criminal divisions	36
Misdemeanants and domestic-relations divisions	22
Misdemeanants and women's criminal divisions	18
Domestic-relations and women's criminal divisions	27
Families dealt with by three divisions	15
Juvenile, misdemeanants, and domestic-relations divisions	8
Juvenile, misdemeanants, and women's criminal divisions	2
Juvenile, domestic-relations, and women's criminal divisions	5

Table 20 shows the total number of families dealt with by each division of the court's probation department in October, 1923, and the numbers and percentages of families dealt with during that month by other divisions in cases of the types included in the study.

TABLE 20.—*Distribution of cases by divisions of probation department; number and percentage of families dealt with by one and by more than one division of the probation department of the municipal court in October, 1923, Philadelphia*

Division of probation department	Families dealt with				
	Total	By 1 division of probation department		By more than 1 division of probation department	
		Number	Per cent	Number	Per cent
Juvenile division	2,526	2,216	88	310	12
Misdemeanants division	736	627	85	109	15
Domestic-relations division	3,080	2,818	91	262	9
Women's criminal division	778	690	89	88	11

Of especial interest in considering the amount of overlapping in the work of the several divisions is the extent to which different divisions were giving probationary supervision to the same family at the same time. Of the 6,728 families included in the study, 4,363 (65 per cent) were under probationary supervision on October 31, 1923, including a few under supervision in cases of types with which the study was not concerned. Excluding 59 families that were under supervision of the medical department only, the total was 4,304, and 164 (4 per cent) of these families were under the supervision of more than one division (not in-

cluding those under supervision of the medical department and one other division). Thirteen families were under the supervision of three divisions. The most frequent combinations were the juvenile and domestic-relations divisions (60 families), the juvenile and men's misdemeanants (17 families), the juvenile and women's criminal (17 families), the juvenile and women's misdemeanants (14 families), the women's misdemeanants and women's criminal (13 families), and the women's misdemeanants and domestic relations (11 families).

FAMILIES WITH PREVIOUS COURT RECORDS

Of the 6,728 families dealt with by the municipal court in October, 1923, in cases included in the study, 1,255 (19 per cent) had previously been known in such cases to one or more divisions other than those dealing with the family in that month.

Table 21 shows the number of families dealt with in October that had been dealt with previously by one division and by two or more divisions, and the divisions dealing with these families.

TABLE 21.—*Previous court record in divisions of the probation department other than that dealing with family in October, 1923; families dealt with by one or more specified divisions of the probation department of the municipal court in October, 1923, Philadelphia*

Court record in other divisions of probation department prior to October, 1923[1]	Families dealt with										
		By 1 division of probation department				By more than 1 division of probation department					
								Juvenile or misdemeanants and—			
	Total	Total	Juvenile or misdemeanants	Domestic relations	Women's criminal	Total	Juvenile and misdemeanants	Domestic-relations	Women's criminal	Other combinations	Domestic-relations and women's criminal
Total	6,728	6,351	2,843	2,818	690	377	59	222	54	15	27
Not known previously to other divisions	5,473	5,182	2,245	2,398	539	291	43	185	36	[2] 13	14
Known previously to 1 other division	1,079	1,001	515	376	110	78	15	31	18	[3] 2	12
Known previously to 2 or more other divisions	176	168	83	44	41	8	1	6	------	------	1

[1] Previous court record in the same division as that dealing with the family in October, 1923, not included nor court record in type of case not covered by the study.

[2] Includes 8 dealt with by the juvenile, misdemeanants, and domestic-relations divisions; 2 dealt with by the juvenile, misdemeanants, and women's criminal divisions; and 3 dealt with by the juvenile, domestic-relations, and women's criminal divisions.

[3] Dealt with by juvenile, domestic-relations, and women's criminal divisions.

Of the 3,193 families dealt with by the juvenile and misdemeanants division 21 per cent had been previously dealt with in juvenile or family cases by some other division than that dealing with the family in the period covered by the study. Of the 3,080 families dealt with by the domestic-relations division, 15 per cent had been previously dealt with by other divisions. Of the 778 families dealt with by the women's criminal division, 24 per cent had been dealt with previously.

A relation between desertion or nonsupport and delinquency is suggested by the fact that of the 3,080 families dealt with in desertion or nonsupport cases 1,323 (43 per cent) had children between the ages of 10 and 21 years, and in 230 of these families (17 per cent) one or more of the children had been known to the juvenile, misdemeanants, or criminal divisions because of delinquency or crime. More than one child (including a few children under 10 years of age) had been delinquent in 74 families.

INTERRELATION OF DIVORCE WITH THE MUNICIPAL-COURT CASES COVERED BY THE STUDY

The Philadelphia municipal court does not have jurisdiction over divorce. Records were obtained for 284 families with children under 18 years of age to which divorce decrees had been granted by the court of common pleas before

June 30, 1924, the petitions having been filed between January 1 and August, 1923.[8]

The 284 families included in the study represented 18 per cent of the total number of Philadelphia families to which divorces were granted in 1923.[9] Information regarding the number of children under the age of 18 years was obtained for 276 of the 284 families. Eight families were known to have children under this age, but the number of children was not reported. The 276 families had 385 children, an average of 1.4 per family, as compared with an average of 1.8 for the State as a whole for families with children of all ages.[10]

Of the 276 families reporting ages of children, 35 (13 per cent) were reported as having children under the age of 3 years and 141 (50 per cent) as having children under the age of 7 years. Two-thirds of the families (67 per cent) had only one child under the age of 18.

Thirty-six of the 284 families (13 per cent) were known to the municipal court in the year ended October 31, 1923, the year in which the divorce petitions were filed. Ninety-seven additional families had been known to the municipal court previously, making almost half the families (47 per cent) known to the municipal court at some time prior to the end of the fiscal year.

The major cause for divorce among the 284 families was desertion, this being the only cause stated for 135 families and one of the causes for 33 others. These 168 families represented three-fifths of the group. Eighty of the families in which desertion was the sole alleged cause or one of the alleged causes of divorce had been known to the municipal court during or before the year specified—almost exactly the same proportion as for the whole group (48 per cent as compared with 47 per cent). Approximately the same percentage (47) among the families in which cruelty and indignities, but not desertion, were alleged were known to the municipal court.

Table 22 shows the cause alleged for divorce in the Philadelphia divorce cases involving children, and the municipal-court record.

TABLE 22.—*Alleged cause of divorce and municipal-court record; families with children under 18 dealt with by the common-pleas court in divorce cases from January to August, 1923,[a] Philadelphia*

Alleged cause for divorce	Families dealt with in divorce cases					
	Total	Known to municipal court				Not known to municipal court
		Total	In fiscal year in which petition was filed	Before fiscal year in which petition was field	After fiscal year in which petition was filed	
Total	284	140	36	97	7	144
Desertion	168	81	14	66	1	87
Alone	135	63	10	53		72
With cruelty or indignities [b]	[c] 26	16	3	12	1	10
With other cases	[d] 7	2	1	1		5
Cruelty or indignities [b]	98	50	18	28	4	48
Alone	96	49	17	28	4	47
With adultery	2	1	1			1
Adultery	17	9	4	3	2	8
Commission of crime	1					1

[a] Includes only cases in which the decree was granted before July 1, 1924.
[b] Includes 1 or both causes.
[c] Includes 1 case of adultery also.
[d] Includes 5 cases of adultery and 2 of commission of crime.

[8] Only so many of the August cases were included as were necessary to bring to 300 the number of divorce cases included. Later exclusions reduced the total number of divorce cases to 284. (The Hamilton County study included cases in which petitions for divorce had been filed as well as those in which they had been granted.

[9] According to the census 1,578 divorces were granted. See Marriage and Divorce, 1923, p. 54 (U. S. Bureau of the Census, Washington, 1925). But the census figures relate to the calendar year 1923, whereas the figures here given represent families in which divorce petitions were filed during approximately the first seven months of 1923 and decrees were granted prior to June, 1924.

[10] Marriage and Divorce, 1923, p. 40.

Fifty of the one hundred and forty families in divorce cases that had been known to the municipal court had been dealt with by that court in unofficial cases only. All but 5 of the 140 had been known to the domestic-relations division and 121 had been known to that division only. Twelve had been known to the juvenile and domestic-relations divisions, 2 to the domestic-relations division and other divisions, 3 to the juvenile division only, and 2 to the misdemeanants or criminal divisions. The number of families known to the domestic-relations division comprised 48 per cent of the total number (284) for which information was obtained. Thus almost half of this group of divorce cases involving children under the age of 18 years had been known to the domestic-relations division of the municipal court of Philadelphia.

Many of these families had come to the attention of the municipal court more than once, as follows:

	Number of families
Total families	140
Dealt with once	68
Dealt with twice	30
Dealt with 3 times	17
Dealt with 4 times	8
Dealt with 5 times	17

The types of complaints made to the municipal court with regard to these 140 families were as follows:

	Number of families
Total families	140
Domestic-relations cases	135
Desertion or nonsupport	67
Desertion or nonsupport with abuse, quarreling, improper home, or other charge [11]	33
Desertion or nonsupport with juvenile cases or cases of offenses against children	6
Abuse, quarreling, improper home, custody of child, and other charge [11]	29
Other cases	5

SOCIAL AGENCIES DEALING WITH THE FAMILIES

As the municipal court of Philadelphia registered with the social-service exchange nearly all the types of cases with which this study is concerned, it was possible to ascertain approximately the extent to which families dealt with by the court were known to social agencies of various types.[12]

More than half the families included in the study (58 per cent) were reported as known to social agencies at some time, and more than one-third (36 per cent) were known to more than one agency. The corresponding percentages found in Hamilton County, Ohio, were 53 and 33, but the Hamilton County cases included divorce, adoption, and guardianship, which were not included in Philadelphia (for other differences in method see p. 79) and covered the entire year of 1923. Eighteen Philadelphia families had been known to 15 or more agencies, one to 20 agencies, and two to 24 agencies.

Table 23 shows the per cent distribution of the total number of families according to the number of agencies to which the families were known. Table 24 shows the numbers and percentages of families known to social agencies, by type of case and by type of social agency.

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[11] Including a few families also dealt with in children's cases. These cases included some "friendly service" cases dealt with unofficially by the domestic-relations division.

[12] Of the 6,728 families included in the municipal-court study, 627 were dealt with by the misdemeanants division only. The two branches of this division were not registering cases with the social-service exchange when the study was made. A number of families in this group, however, were reported as known to social agencies, though the percentage was smaller than in any other group. (See Table 24, p. 96.)

TABLE 23.—*Number of social agencies to which families were known; families dealt with in juvenile and domestic-relations cases by the municipal court in October, 1923, Philadelphia*

Reported number of social agencies to which family was known prior to and in October, 1923	Families dealt with	
	Number	Per cent distribution
Total	6,728	100
None	2,840	42
1 agency	1,463	22
2 agencies	766	11
3 agencies	519	8
4 agencies	335	5
5 agencies	246	4
6 agencies	182	3
7 or more agencies	377	6

TABLE 24.—*Type of case and number and percentage of cases known to social agencies of all types and of specified types; families dealt with in juvenile and domestic-relation cases by the municipal court in October, 1923, Philadelphia*

Type of case	Families dealt with in all cases	Families[1] dealt with who were reported as known to social agencies prior to and in October, 1923													
		All agencies		Family-welfare agencies		Medical and health agencies		Child-caring agencies and institutions		Agencies dealing with delinquency, prevention of delinquency, and protection of children		Settlements and recreational agencies		Other agencies	
		Number	Per cent	Number	Per cent	Number	Per cent	Number	Per cent	Number	Per cent	Number	Per cent	Number	Per cent
Total	6,728	3,888	58	1,606	24	2,949	44	1,112	17	1,027	15	267	4	714	11
Delinquency	1,599	865	54	343	21	667	42	250	16	254	16	78	5	181	11
Dependency or neglect	515	440	85	265	51	339	66	253	49	194	38	63	12	68	13
Mentally defective child	41	35	(2)	19	(2)	32	(2)	7	(2)	3	(2)	1	(2)	4	(2)
Incorrigible, runaway, or disorderly child	627	170	27	42	7	90	14	45	7	45	7	7	1	24	4
Desertion or nonsupport	2,818	1,463	52	618	22	1,045	37	253	9	288	10	73	3	237	8
Illegitimacy	690	526	76	77	11	471	68	126	18	67	10	4	1	90	13
More than 1 type of case	438	389	89	242	55	305	70	178	41	176	40	41	9	110	25

[1] Many families were known to more than 1 type of agency.
[2] Not shown because number of families was less than 50.

Nearly nine-tenths (89 per cent) of the families dealt with in more than one type of case by the court had been known to social agencies. The percentages known to agencies of all types correspond rather closely to the similar figures for Hamilton County, Ohio, except that the Philadelphia figures for families dealt with in cases of dependency or neglect and of illegitimacy and known to social agencies were considerably higher (85 per cent as compared with 64 per cent for dependency and neglect and 76 per cent as compared with 58 per cent for illegitimacy cases; see p. 81.)

Forty-four per cent of the families had been known to medical and health agencies, including hospitals, dispensaries and clinics, the visiting nurse society,

child-health centers, and other health agencies. The corresponding percentage for Hamilton County was 30. Family-welfare agencies ranked next, 24 per cent of the families being reported as known to them, whereas in Hamilton County the family-welfare agencies dealt with the largest proportion of families (34 per cent). A surprisingly large group of families (17 per cent) had been known to child-caring agencies and institutions. In Hamilton County the proportion of families known to such agencies was much smaller.[13] Fifteen per cent of the Philadelphia families and 16 per cent of the Hamilton County families were known to agencies dealing with delinquency, the prevention of delinquency, and child protection. (Table 9.) In view of the importance of wholesome recreation in the prevention of juvenile delinquency, it is interesting to note that only 4 per cent of all the Philadelphia families and only 5 per cent of those dealt with in delinquency cases had been known to settlements and recreational agencies. Doubtless, however, registration with the social-service exchange by agencies of this type was much less complete than registration by most of the other types of social agencies.

The individual agency registering the largest number of families was the Society to Protect Children from Cruelty, 970 families having been known to this agency. The Society for Organizing Charity (now the Family Society) was next, registering 947 families. Almost a third of the families known to the former agency (308) were dealt with in nonsupport or desertion cases and in no other type of case, the next largest number (222) having been dealt with in delinquency cases. Of the 947 families known to the Society for Organizing Charity, 354 were involved in desertion or nonsupport cases and 219 in delinquency cases. Each of these agencies was reported for more than twice as many families as any other single agency. The Philadelphia Children's Bureau was reported as knowing 428 families; the Catholic Children's Bureau, 365; the department of public health and charities, 301; the Jewish Welfare Society, 168; the Jewish Children's Aid Society, 162; and the White-Williams Foundation (an organization doing vocational counseling and visiting-teacher work in the public schools), 146. Six other agencies were reported as having known as many as 100 families. (For the agencies most frequently registering the families in Hamilton County, Ohio, see p. 82.)

CHARACTERISTICS OF THE FAMILIES

Number and ages of the children.

Information on the number of minor children in the family was obtained for 6,017 families (not including 690 families dealt with only in illegitimacy cases and 21 other families for which information on composition of family was not reported). In nearly one-third of these families (32 percent) there was but one minor child (including families in which there was only an unborn child or in which the child had died and the father was paying arrears on a support order or on funeral and confinement expenses). The corresponding percentage for Hamilton County, Ohio, was 41; but the Hamilton County figures included certain groups not represented in the Philadelphia figures (families dealt with only in illegitimacy cases and cases of divorce, adoption, and guardianship).[14] In 21 per cent of the families there were two children, and 47 per cent had three or more. Excluding unborn children, the total number of minor children in the 6,017 families was 17,143, an average of 2.8 per family, as compared with an average of 2.4 per family in Hamilton County.

Table 25 shows the number of minor children in families by age groups. In 63 per cent of the families all the children were under 16 years of age. This percentage was somewhat smaller than that in Hamilton County (71). Families in which all the children were between 16 and 21 years represented 7 per cent of the total in Philadelphia.

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[13] The differences in the proportions known to family-welfare and to children's agencies are partly accounted for by the fact that family-welfare agencies in Hamilton County included the child-caring work and the Big Brother and Big Sister work of the Bureau of Catholic Charities and the United Jewish Social Agencies.

[14] The probate court in Hamilton County, which deals with adoption, guardianship, and commitment of mentally defective children, had only very incomplete social data. Doubtless a number of families with only one child recorded had in reality more than one child.

TABLE 25.—*Number of minor children in family by age groups; families dealt with in juvenile and in desertion or nonsupport cases by the municipal court in October, 1923, Philadelphia*

Number of minor children in family	Families dealt with in juvenile and in desertion or nonsupport cases					
	Total	Ages of minor children				
		All under 16	Some under 16, some 16 but under 21	All 16 but under 21	Not reported	Child unborn or dead
Total	6,038	3,782	1,757	418	21	60
Number of minor children in family reported	6,017	3,782	1,757	418		60
1	1,907	1,631		276		
2	1,270	911	245	114		
3	937	541	374	22		
4	651	315	330	6		
5	501	189	312			
6	321	110	211			
7	206	49	157			
8	101	14	87			
9	41	19	22			
10	15	2	13			
11	3		3			
12	4	1	3			
Child unborn or dead	60					[1] 60
Number of minor children in family not reported	21				21	

[1] Includes some families in which the father was paying arrears on a support order or funeral or confinement expenses.

Table 26 shows the numbers of children of specified ages in families dealt with in cases of desertion or nonsupport and in juvenile cases (including delinquent, dependent, neglected, and mentally defective children, and incorrigible, disorderly, and runaway children between the ages of 16 and 21 years).

TABLE 26.—*Number of minor children in family by age groups; families dealt with in juvenile and in desertion or nonsupport cases by the municipal court in October, 1923, Philadelphia*

Number of children of specified ages in family	Families [1] dealt with in juvenile and in desertion or nonsupport cases		
	Total	Juvenile cases [2]	Desertion or nonsupport cases
Total	6,038	3,193	3,080
Number of children under 21 years:			
1	1,907	808	1,138
2	1,270	487	822
3	937	527	460
4	651	414	269
5	501	368	164
6	321	248	96
7 or more	370	305	83
Unborn or dead	60	20	43
Not reported	21	16	5

[1] Some families were dealt with in both juvenile and desertion or nonsupport cases.
[2] Includes cases of delinquent, dependent, neglected, and mentally defective children and incorrigible, disorderly, and runaway children 16 to 21 years of age.

TABLE 26.—*Number of minor children in family by age groups; families dealt with in juvenile and in desertion or nonsupport cases by the municipal court in October, 1923, Philadelphia*—Continued

Number of children of specified ages in family	Families dealt with in juvenile and in desertion or nonsupport cases		
	Total	Juvenile cases	Desertion or nonsupport cases
Number of children under 16 years:			
None [3]	446	329	128
1	2,072	888	1,233
2	1,305	531	816
3	872	471	451
4	580	387	233
5	356	257	119
6	225	177	62
7 or more	149	125	33
Not reported	33	28	5
Number of children under 7 years:			
None [3]	2,900	1,881	1,098
1	1,687	604	1,155
2	956	422	583
3	339	179	187
4	85	49	42
5	13	9	6
6	2	2	
Not reported	56	47	9
Number of children under 3 years:			
None [3]	4,356	2,526	1,979
1	1,309	501	873
2	288	100	205
3	20	11	13
4	5	4	1
Not reported	60	51	9
Number of children under 1 year:			
None [3]	5,431	2,938	2,697
1	535	196	368
2	10	5	7
Not reported	62	54	8

[3] Includes families with no children under the age specified but with unborn or dead children.

In 9 per cent of all the families dealt with in juvenile cases and cases of desertion or nonsupport there were known to be living children under 1 year of age (not including unborn children); 27 per cent had children under the age of 3 years; 52 per cent had children under 7 years; 93 per cent had children under 16. Among families dealt with in desertion or nonsupport cases 36 per cent had children under 3 years of age and 64 per cent had children under 7 years of age. The corresponding percentages in desertion or nonsupport cases in Hamilton County were 47 and 73.

Whereabouts of the children and the parents.

Some or all of the children were living with one or both parents or with stepparents in 87 per cent of the 5,927 families dealt with in juvenile cases and cases of desertion or nonsupport for which whereabouts of children was reported. In 13 per cent the children were not with the parents. The percentages of families dealt with in various types of cases in which none of the children was with either parent were as follows: In cases of delinquency and incorrigibility, 15; of dependency or neglect, 34; of desertion or nonsupport, 7. (The corresponding percentages for Hamilton County were delinquency, 10; dependency or neglect, 27; desertion or nonsupport, 11.)

In 24 per cent of the families dealt with in juvenile cases and in cases of desertion or nonsupport some or all of the children were not living with either parent. The whereabouts of the children not living with their parents was as follows:

	Number of families
Total families	1,427
Children living with relatives	457
Children married	[15] 17
Children living or working away from home	[16] 93
Children in foster or adoptive home	202
Children in institution	392
Children separated, some in foster homes or institutions	170
Children elsewhere	45
Whereabouts not reported	51

Table 27 shows the whereabouts of the children in families dealt with in juvenile cases and in cases of desertion or nonsupport.

TABLE 27.—*Whereabouts of children and type of case; families dealt with in juvenile and in desertion or nonsupport cases by the municipal court in October, 1923, Philadelphia*

Whereabouts of children	Families dealt with in juvenile and in desertion or nonsupport cases	Families [1] dealt with in selected types of cases		
		Delinquency or incorrigibility	Dependency or neglect	Desertion or nonsupport
Total	6,038	2,501	727	3,080
Families with children whose whereabouts was reported	5,927	2,446	724	3,022
Some or all children with one or both parents	5,139	2,073	467	2,808
With both parents (or parent and step-parent)	2,414	1,448	161	869
With mother only	2,286	455	223	1,729
With father only	405	162	81	186
Parent not reported	[2] 34	8	2	24
Children not with either parent	788	373	257	214
Whereabouts of children not reported, or child unborn	111	55	3	58

[1] Many families were dealt with in more than 1 type of case.
[2] Includes 29 families in which the parents were divorced or separated and 5 in which the parental status was not reported.

Both own parents or step-parents were in the home in 41 per cent of the families in which whereabouts of children was reported. In a very few cases a stepfather and stepmother were in the home, both own parents being absent. Only the mother was in the home in 38 per cent of the families and only the father in 7 per cent. The percentage of families in which both parents were in the home was considerably higher in Philadelphia (41) than in Hamilton County, Ohio (28). This difference is due in part at least to the inclusion of mothers' aid cases and divorce cases in the Hamilton County figures.

[15] In 7 other families some of the children were married and living away from home.
[16] Including children in boarding schools and in the Army or the Navy.